

# **REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES**

## **SECTION 1: Planning Applications**

In accordance with the provisions of Section 100D of the Local Government Act 1972, BACKGROUND PAPERS are the contents of the files whose registration numbers are quoted at the head of each report, but this does not include material which is confidential or exempt (as defined in Sections 100A and D of that Act, respectively).

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## **1. PLANNING APPLICATIONS**

**This section also includes reports on applications for: approvals of reserved matters, listed building consent, work to trees in tree preservation orders and conservation areas, conservation area consent, hedgerows work, advertisement consent, notices for permitted development under the General Permitted Development Order 2015 (as amended) responses to County Matters and strategic submissions to the Secretary of State.**

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
9/2017/0349	1.1	Mickleover	Etwall	5
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9/2017/1031	1.3	Kings Newton	Melbourne	69
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When moving that a site visit be held, Members will be expected to consider and propose one or more of the following reasons:

1. The issues of fact raised by the Director of Community and Planning Services' report or offered in explanation at the Committee meeting require further clarification by a demonstration of condition of site.
2. Further issues of principle, other than those specified in the report of the Director of Community and Planning Services, arise from a Member's personal knowledge of circumstances on the ground that lead to the need for clarification that may be achieved by a site visit.
3. Implications that may be demonstrated on site arise for consistency of decision making in other similar cases.

**Item** 1.1

**Ref. No.** 9/2017/0349/OME

**Applicant:**  
CEG Land Promotions Limited And  
Robert William Walmsley  
C/O Commercial Estates Group  
Sloane Square House  
1 Holbein Place  
London  
SW1W 8NS

**Agent:**  
Mr Nicholas Mills  
Lichfields  
Ship Canal House  
98 King Street  
Manchester

**Proposal:** **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF UP TO 1,100 DWELLINGS, AN EXTRA CARE FACILITY, A LOCAL CENTRE COMPRISING: A SMALL SUPERMARKET WITH A FLOORSPACE NOT EXCEEDING 1000 SQM (NET); A SMALLER RETAIL UNIT WITH A TOTAL FLOORSPACE NOT EXCEEDING 200SQM (NET); A CAFE/RESTAURANT WITH A FLOORSPACE NOT EXCEEDING 200 SQM (NET); A PUBLIC HOUSE WITH A FLOORSPACE NOT EXCEEDING 650 SQM (NET); A DOCTORS SURGERY OR CRECHE; AND A COMMUNITY FACILITY, AS WELL AS A PRIMARY SCHOOL TOGETHER WITH ASSOCIATED PLAYING FIELDS AND THE PROVISION OF ASSOCIATED INFRASTRUCTURE (INCLUDING ROADS, FOOTPATHS, CYCLEWAYS, SUSTAINABLE URBAN DRAINAGE AND OPEN SPACE) AT LAND AT NEW HOUSE FARM MICKLEOVER DERBY**

**Ward:** ETWALL

**Valid Date** 24/03/2017

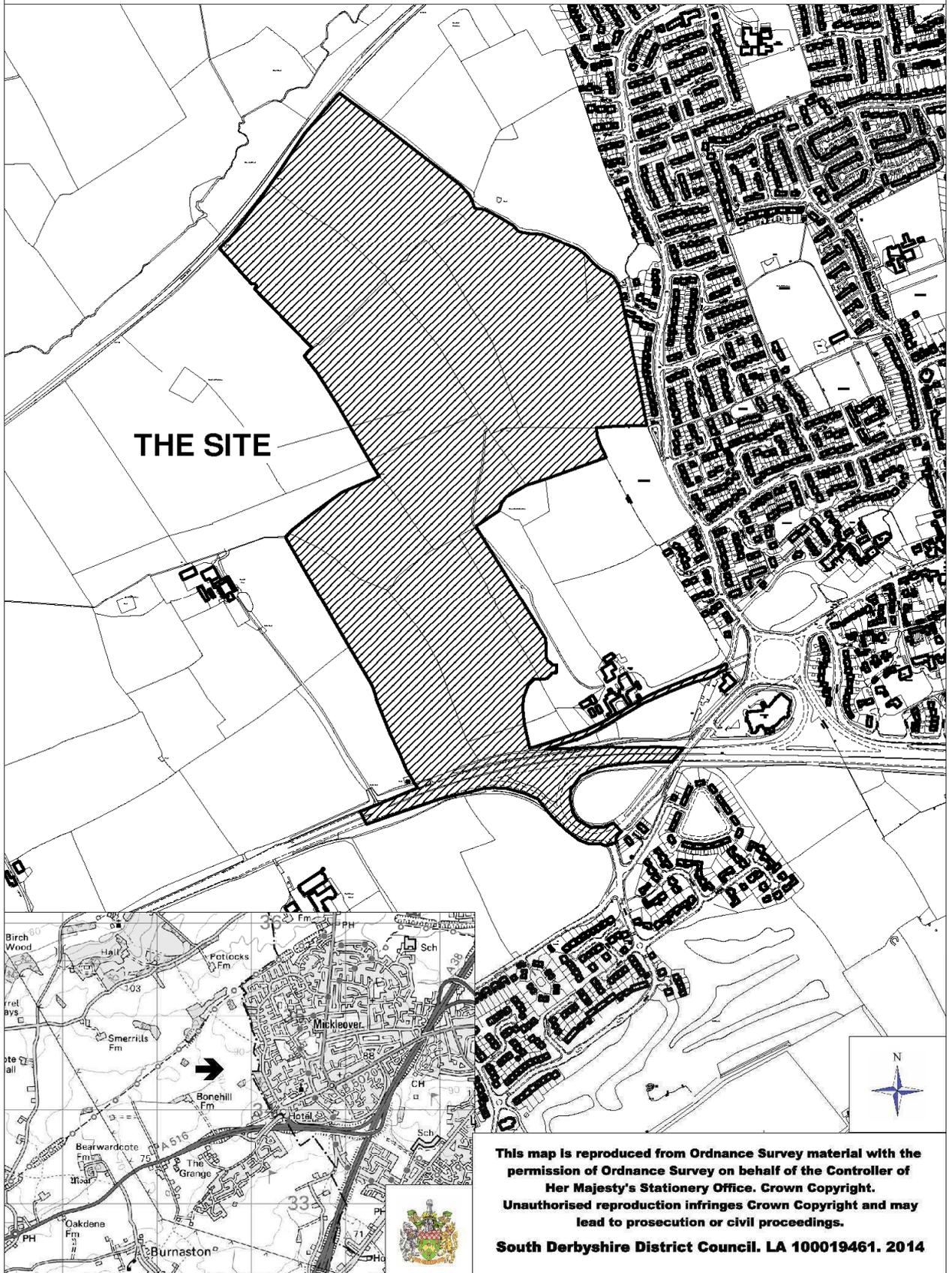
#### **Reason for committee determination**

The item is presented to Committee as it is a major application with more than two objections.

#### **Site Description**

The site situated to the west of the settlement of Mickleover and extends to approximately 50.9ha (125.9 acres) and comprises mainly improved grassland. The site is located to the north of the A516 Etwall Road, which connects Mickleover with the A38 to the east and the A50 further west. The northern boundary of the site is defined by the former Mickleover railway line which is now the National Cycle Network (NCN) route 54, which passes through Black Wood. Public Right of Way Radbourne 8 runs along the eastern edge of the site but off-site, accessed off Greenwood Court. Residential properties on Greenside Court and west of Ladybank

9/2017/0349 - Land at New House Farm, Mickleover, Derby DE3 0DN



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Road back onto the site. The site slopes gently downwards from approximately 94m AOD at the eastern site boundary to 76m AOD at the western site boundary.

## **Proposal**

Outline Planning permission is sought with access for approval now and all other matters reserved for future approval. The development of the site would include the erection of up to 1,100 dwellings, an extra care facility, a local centre comprising a small supermarket (Use Class A1) with a floorspace not exceeding 1,000sq.m. (net); a smaller shop, a café/restaurant, a public house, a doctors surgery and/or crèche and community facility, a primary school, together with the associated playing fields and other associated infrastructure.

The proposed residential development is accessed from the new A516 roundabout and main road leading from it on the northern arm of the roundabout with the leisure, educational, commercial and community uses indicatively shown around a central area. Connections are shown to the development to the north-east and south-east currently being delivered as well as a pedestrian/cycle link along Old Etwall Road.;

## **Applicants' supporting information**

The Environmental Statement comprises:

A Traffic Impact Assessment has been undertaken as part of the Transport Assessment to assess the impact of the proposed development on the surrounding local junctions within the survey area agreed with the highway authorities. The baseline analysis has established that the majority of the existing highway network serving the site is operating within capacity and provides good public transport, pedestrian and cycle access. The potential effects of the development on the highway network, links and safety during construction will be negligible. The proposed mitigation measures will ensure that the potential effects of the development remain negligible. The assessment shows that the proposed development is not predicted to have a severe residual impact. After completion, the proposed development is predicted to have a negligible impact on all the roads within the agreed highway study area. The proposed mitigation measures will result in a beneficial effect for non-motorised users on the network. The proposed development incorporates a comprehensive package of measures to mitigate the transport related environmental effects, which will also have benefit even at those junctions not materially affected by the development. This package of measures is focused around sustainable transport strategies and demand management aimed at reducing the demand for private car travel generated by the development. A Framework Travel Plan has been submitted with the application and includes a substantial package of initiatives to promote sustainable transport choice.

In relation to Dust and Air Quality Impacts associated with the proposed development, for the construction phase, good practice dust control measure and exhaust emissions mitigation have been proposed and following the implementation of the mitigation measures the residual impact would be considered negligible. Baseline pollutant concentrations on site have been investigated using both existing monitoring data and modelling and at present and in the future years, all pollutants

are below the Air Quality Objectives; The impact of the proposed development on local air quality, including the Derby Inner and Outer Ring Roads AQMA, would be limited to the impact associated with traffic generation as there are no other sources of pollution proposed in association with the proposed development. In the immediate environs of the proposed development site, since local pollutant concentrations are low, any small increases in pollutant concentrations as a consequence of increases in traffic flow would be considered negligible. The cumulative impacts of the proposed development with all other committed development have also been investigated. At all the receptors assessed outside of the AQMA, the cumulative impact of all proposed development is considered to be negligible. The cumulative impact of the proposed development and all other committed development is considered to be minor adverse on Uttoxeter New Road within the AQMA.

The Landscape and Visual Amenity chapter of the ES assessed the site as having a medium landscape sensitivity, low landscape value and ordinary quality resulting in a capacity to accommodate residential development. The visual quality is assessed as moderate. The proposed mitigation measures in the form of new landscaping both within and outside of the development and areas of open space would fulfil some of the characteristics identified within the landscape character assessment and adhere to local planning policy. The site has the ability to absorb change and allow the process of development without impacting adversely on adjacent landscapes given appropriate development layout and mitigation planting. The significance of the development that endures on completion of the development within the landscape is considered to be minor adverse for landscape effects and negligible to minor adverse for visual effects.

The Flood risk, Drainage and Hydrology Effects chapter states the site is located in Flood Zone 1 and is considered to be at low risk of flooding from groundwater, reservoirs and other artificial sources. The EA Risk of Flooding from Surface Water Map indicates that the site is generally at a very low risk of flooding from this source; however, there are areas through the site which are defined as low, medium and high risk. Potential flood depths for all events are generally expected to be below 300 mm for the low, medium and high risk events. The construction phase has the potential to affect the quality of local water bodies through the mobilisation of contaminants and sediments, and accidental spillages, and the creation of new pollutant pathways to the aquifer. Construction would involve implementation of a Construction Environmental Management Plan and best construction practices. As part of the operational phase, finished floor levels would be raised by 150 mm or 300 mm above adjacent to ground levels, to mitigate the residual risk of flooding from all sources. A surface water drainage scheme based on sustainable drainage principles would be implemented in order to manage surface water flood risk and to provide water quality benefits. Discharge rates to the ordinary watercourses or public surface water sewer would be restricted to greenfield rates, and treatment to surface water would be provided via the SUDS treatment train. The system will be designed to cater for the 1 in 100 annual probability event including a 20% increase in rainfall intensity in order to allow for climate change. A sensitivity analysis would also be undertaken using a 40% allowance for climate change, in order to safeguard the development over its lifetime. The residual significance of environmental effects on the water environment is considered to be negligible.

The chapter on Cultural Heritage & Archaeology relates to heritage assets, including archaeological features, historic buildings, and the historic landscape. The currently available geological, archaeological and historical information for the site was summarised to establish baseline conditions, and c the site's potential for the presence of other, as-yet undiscovered, buried archaeological remains was considered. The baseline study, including geophysical survey, identified one heritage asset within the site: two areas of ridge and furrow. Based on past fieldwork in the vicinity and the results of the geophysical survey, it is considered that the site has a low potential to contain further archaeological remains, with the exception of additional evidence of ploughed-out ridge and furrow. The physical loss of ridge and furrow within the site during construction will be partially offset through its preservation by record. The ridge and furrow is of low value and this is considered to equate to a negligible effect.

The Ecology and Nature Conservation chapter assesses the potential impacts on nature conservation and biodiversity arising from the proposed development together with the cumulative ecological impacts arising from the two other schemes have also been considered. The work is based on a desk study and field surveys carried out between 2011 and 2016. The desk study revealed 59 records for glow worm along the disused railway and associated woodland and grassland habitat. The ecological appraisal has found a moderate level of nature conservation interest on the site, localised to woodland, hedgerows and mature trees. There are also three Local Wildlife Sites close to the site boundary, two sharing boundaries with the site. After mitigation, it is considered that construction impacts will largely be neutral, and there will be some positive effects due to the scheme providing additional and enhanced aquatic and grassland habitats. There would be no adverse impacts towards protected species following mitigation measures. Control measures during the construction phase, such as a restriction on lighting and night time working, are likely to prevent negative impacts caused by disruptions to retained woodland and hedgerows used by commuting and foraging bats. A possible short-term negative impact due to the minor loss of hedgerows will occur over certain periods during the construction phase or for construction activities to temporarily disturb wildlife and nesting bird activity close to woodland and hedgerow habitats. As new planting establishes and disturbed habitats recover, the magnitude of impacts will lessen.

The design of the green infrastructure and proposed control measures (such as a lighting strategy) is key to providing net gains for biodiversity across the site by providing additional functional habitats and will also provide mitigation for species that do not readily adapt to change and for species that are light averse. The only residual adverse effects during the operational phase of the development will be to Ladybank Local Wildlife Site. These effects will be minor and result from the loss of site context and potential pressures from the public due to being surrounded by development on all sides. These impacts will be managed by applying recreation management for the Local Wildlife Site and within other green spaces on the site. For example, inclusion of dense scrub planting of buffers and fencing around sensitive areas, the design of the development footprint and from continued habitat management. Such measures will also offer additional bird nesting and foraging habitat for birds and bats. In overall terms, the appropriate management of new and retained habitat during the operational phase will ensure that habitats and species

retain their interest and the effects of the proposed development will largely be neutral with some habitat and species positive gains.

The Noise and Vibration Impacts chapter included the potential impact of construction site noise and the impact of any additional traffic noise generated on the local highway network as a result of the completed development. The noise impact of traffic on the A516, and the proposed new spine road, on the proposed development itself has been assessed. In addition an assessment of the noise impact of the proposed local centre and school has been undertaken. It has been concluded that, with the implementation of appropriate mitigation measures, the noise impact at any one location during the construction phase will be no more than minor adverse and for a temporary period only. For the fully completed development, there are very low levels of calculated increases in traffic noise on local roads from traffic generated by the development which amount to a negligible noise impact. It is also concluded that, with implementation of appropriate noise mitigation measures, traffic noise impact from the new spine road on the proposed dwellings nearest to the road will be negligible. For the proposed new houses that will be nearest to the A516, some noise mitigation measures have been recommended to ensure that acceptable noise levels will be achieved. Thus noise impact on the new residents will be negligible. Some noise mitigation measures are likely to be necessary for any mechanical services plant associated with the proposed local centre and school in order to ensure that noise impact at the proposed nearest houses will be adequately low. With implementation of these measures it is concluded that the noise impact would be negligible.

The Ground Conditions and Contamination chapter considers that based upon the history and environmental setting of the site, the overall likelihood of significant impacts from contamination and / or ground gas is low. It is noted that there are small areas of the site where there may be the potential for made ground to be present, although it is considered that there is sufficient information at this stage to conclude that significant impacts are unlikely and that with standard mitigation effects are negligible. Any further ground investigation to fully assess these areas could, therefore, proportionately be carried out post determination of the planning application. On the basis that any mitigation measures required are appropriately adopted, it is considered that residual effects to site users and the built environment from ground gas and from contamination would be negligible.

The Socio-Economic Effects chapter considers that the proposal would deliver a large, mixed-use development and would also deliver positive impacts with respect to the economy and labour market of Derby City and South Derbyshire, through the creation of new jobs at both the construction and operational stages. The inclusion of community facilities in the site will also help support the infrastructure needs of the local community. Based on this assessment, the most significant socio-economic impacts of the proposed development on the local economy are likely to include:

- 1) A capital investment of approximately £112 million;
- 2) 986 person-years of construction work, with further indirect and induced employment impacts in the supply chain and related services;

- 3) The creation of permanent, on-site employment opportunities equivalent to a net gain of 124 direct and indirect FTE jobs in the local economy and a further 16 in the wider region;
- 4) Attracting new households to live in the area, generating £14 million of net additional expenditure in shops and services within the local economy and supporting c.162 FTE jobs across a range of sectors (including retail and leisure);
- 5) Generate £6 million of first occupation expenditure on goods and services to make a house 'feel like a home' with a proportion captured locally;
- 6) Provision of up to 1,100 market and affordable homes, thereby improving housing choice in Derby City and South Derbyshire;
- 7) Provision of new local retail and service facilities, community and education facilities to complement the delivery of new residential development; and
- 8) Provision of new open space and recreation space.

The proposed mixed-use scheme represents a significant new capital investment within the local area, and will help to raise the overall level of economic activity and expenditure within the local economy.

The Arboricultural Impact Assessment states that Tree Preservation Order (TPO Number: 97-1990) affords protective status to trees detailed as T3, T4 and T5. Trees numbered T8, T26, T34, T35, T43, T47, T48, T50, T63, T64, T71, T72 and T73 have been recommended for removal/ monolithing for arboricultural reasons. In order to facilitate the development it would be necessary to remove sections of hedging H14, T38 and a section of G44. The preparation of an Arboricultural Method Statement (AMS) is recommended detailing which trees are to be removed, which trees are to be retained and any other tree works which are required to facilitate development. The AMS will also advise on temporary protective barriers, temporary ground protection, site supervision, location of services and it will detail specialist construction techniques.

The Design and Access Statement identifies the vision and objectives for the site. The vision is a mixed use community of a range of high quality housing and affordable homes with a vibrant local centre. Objectives include; delivering a high quality place, creating an accessible and permeable place, creating a legible place, creating an inclusive place, delivering a green environment, establishing a safe community and creating a sustainable development. The site is described located on the urban edge of Mickleover to the north and west of New House Farm, extending from Brown Cross Plantation to Black Wood. The site context is described with the Barrett scheme for 292 dwellings to the south, under construction and the Richborough Estates scheme for 252 dwelling to the north east yet to be determined. The site's access and links to public transport is described together with its topography and landscape character. Ecology, drainage, flood risk, archaeology and views are summarised. Historical maps are provided and assessed. Townscape character is considered to be a mixture of early 1970s housing estates of a uniform design of red brick dwellings and concrete tiles. Site constraints and opportunities are defined. Design evolution is shown in a series of framework masterplans to fit within the existing developments to the south and north east. Use, amount, structure, layout, legibility, landmarks, integration, density and height. Character areas are divided into four areas of the centre / green, northern edge, woodland edge and southern edge. The school would be over the spine road from the local centre. The

proposal would include a total of 12.43 Ha of open space. Sustainable drainage would be incorporated with avenue planting, screen and buffer planting. The street hierarchy would be divided into spine road, avenue / streets, mews, homezone, shared spaces, lanes, private driveways and courtyards. Parking would be prevented from dominated with spaces set behind the building line with landscaped on-street parking incorporated. The site would be divided into 5 phases with the first phase to the south adjacent to the Barrett's site. Parameter plans provide the zones of development for the different uses, access and movement, heights of development, residential density and landscape and open space. Planning policy is reviewed and public consultation was undertaken in May 2016.

The Planning Supporting Statement describes the site and the proposals. It outlines the planning policy context, compliance with the development plan and sustainable development principles. It concludes the proposal accords with the development plan and is considered sustainable development and within the planning balance states that there are no material considerations that indicate that planning permission should not be granted.

## **Planning History**

There is no relevant planning history to this particular area of land but planning permission has been allowed at appeal on the land immediately adjacent to the south-east for 288 dwellings as well as the new access roundabout on the A516 and access road. The access road and roundabout are complete and the housing currently under construction. Permission has also been granted in detail for 252 dwellings immediately adjacent to the north-east which is currently being prepared for implementation. The three sites together form the major allocation referred to as land to the west of Mickleover for up to 1,650 dwellings and associated infrastructure.

Southern Derbyshire CCG considers the development would generate 2750 additional patients and therefore requires a financial contribution of £418,440 for Mickleover Medical Centre for capital works to improve the capacity of the surgery to accommodate these patients.

Derbyshire Education Authority requires the following:

- A new primary school to serve the development.
- £2,834,068.05 for the provision of 165 secondary places at John Port School towards Project H - additional accommodation; and
- £1,229,441.40 for the provision of 66 Post 16 places at John Port School towards Project H - additional accommodation.

The proposed development falls within, and directly relates to, the normal areas of Etwall Primary School which has a net capacity of 280 pupils and has 279 pupils on roll currently. The latest projections show the number of pupils on roll to be 279 during the next 5 years. There are approved planning applications within the normal area totalling 789 dwellings, creating a demand for an additional 158 primary pupils.

The analysis of the current and future projected number of pupils on roll, together with impact of the approved planning applications, shows that the normal area primary school would not have sufficient capacity to accommodate the pupils arising from the proposed development. Therefore, the County Council can advise that the normal area primary school would not have sufficient capacity to accommodate all of the additional pupils generated by the proposed development and as such a new school is required at a cost of approximately £3.5 million with a site of 1.2 Ha set aside. The proposed development falls within, and directly relates to, the normal area of John Port School. The proposed development of 1,100 dwellings would generate the need to provide provision for 165 secondary and 66 post16 pupils which has a net capacity of 2,070 pupils and currently has 1,918 pupils on roll. The latest projections are indicating an increase in the number of pupils on roll to 2,015 during the next 5 years. There are a number of recently approved planning applications within the normal area totalling 924 dwellings amounting to an additional 139 secondary and 55 post16 pupils. The analysis of the current and future projected number of pupils on roll shows that the normal area secondary school would not have sufficient capacity to accommodate the 18 secondary and 7 post16 pupils from the proposed development. Mitigation is proposed in terms of the financial contributions outlined to provide additional accommodation.

Derby City Council recognises the allocation within the LPP1 reflects the strategy for South Derbyshire and Amber Valley, as part of the Derby HMA, to meet some of the City's housing needs outside of the City as Derby cannot meet its objectively assessed housing need in full within its administrative area. This strategic approach to urban extensions to the City is reflected in Policy CP1(b) of the Derby City Local Plan Part 1 (2017) as well as certain criterion of SDDC Policy H19 which seek to ensure that urban extensions deliver seamless cross boundary development that delivers growth alongside the appropriate infrastructure to create vibrant new and extended communities. Of particular relevance to the current application are the elements of these policies that seek to ensure that new development; respects the character and context of the adjoining areas of the city (CP1b(d)); thoroughly assesses the traffic impacts of the development on the local road network, mitigates adverse impacts and identifies necessary improvements to public transport and the road network where necessary (H19(x) and CP1b(e)); and provides new and improved community and commercial facilities and services to sustainably meet the day to day needs of new and existing residents (CP1b(f) and H19 iii, iv, v and vi).

The areas of detail still to be finalised relate to masterplanning, transport mitigation as well as on other key considerations such as affordable housing. It is noted that no DFD for the urban extension has been developed in line with criterion (b)(ii) of SDDC policy H19. It should also be noted that strategic mitigation options have not been tested to inform the transport assessment for this site, which means that obligations to test the development, in a manner consistent with the rest of the strategic sites in the adopted Local Plans, have not been entirely fulfilled. In addition, network wide tests have not been carried out to understand the impact of the development in the absence of the A38 Derby junctions grade separation scheme.

The revisions to the local centre are welcomed, in particular the increase in floorspace in the retail element of the scheme as this now strikes a balance between providing for the day to day needs of local residents, alleviating some of the pressure

on services in Mickleover District Centre without creating additional transport impacts. This is in line with DCLP1 policy CP1b(f) and SDDC policy H19 iv. The applicant's willingness to safeguard the potential for an extension to the local distributor road serving the development is welcomed that could in the future connect the development northward to Radbourne Lane. This should be secured through the s106 agreement and should be included in the list of transport mitigation in the heads of terms. In order to allow for full public transport access any safeguarded route should be capable of delivering a future link with a minimum width of 6.75m.

Highways England (HE) in its approach to seeking to phase the delivery of housing in advance of the A38 grade separation schemes, is welcomed based on the information provided to date. In the absence of transport modelling detailing the impact of the development in advance of the A38 works, a suitably worded condition would be the most effective way of mitigating the impact of the development on the strategic and local road network in advance of this significant new infrastructure.

In respect of the transport mitigation package for the local road network, there appears to be broad agreement as to the cost and range of schemes in the overall package of potential measures. These measures include on-site mitigation such as the securing of a bus gate between this and adjacent site to allow bus permeability. In terms of public transport provision, Derby City Council fully support the statement provided by Derbyshire County Council and seek full involvement in agreeing the evolving nature of the bus service provision across the timeframe for housing delivery. It will also be essential to secure sufficient flexibility to prioritise particular off-site mitigation measures in a way to allow the most appropriate and effective mix of measures to be implemented as the site is developed out. In the absence of detailed design and/or transport modelling data for the mitigation package, flexibility in determining the detail of the mitigation measures, as more information comes to light, is fundamental to the Council's ability to support the proposed mitigation package.

In respect of affordable housing, the City notes the applicant's proposal is to offer contributions to off-site provision rather than securing new affordable dwellings on site. This falls short of SDDC's Local Plan policies which require both in terms of delivering an appropriate housing balance (H20) and only accepting off site contributions to affordable housing where there is 'exceptional justification' (paragraph 5.84 of the supporting text to policy H21 refers). In light of the significant number of details that remain to be finalised through negotiations, conditions and the S106 agreement the Council wish to continue to work together to secure these measures appropriately. Therefore, if the application is to be considered by committee in December, delegated authority should be sought to add to/amend any conditions after the committee meeting and also that the City council be a signatory to the S106 agreement. Additionally, it would also make monitoring arrangements for S106 mitigation measures smoother upon implementation of the development which would be beneficial to both authorities.

The Police Designing Out Crime Officer considers the design objectives 6 from the "A Safer Community" publication with 7 attributes outlined provides a sound basis for future detail. The portion of courtyard parking would need to be overlooked by active residential elevations.

The Environment Agency has no objections subject to conditions relating to foul drainage, discharge of dewatering water to controlled waters and informatives regarding the public water supply and abstraction license.

The Campaign for the Protection of Rural England (CPRE) objects to the proposal as it would result in irreversible harm to the landscape, loss of ridge and furrow landscape, harm to the setting of Radbourne Hall and building on greenfield land should be a last resort.

Natural England has no objection as the proposal is not considered to have significant adverse impacts on designated sites or protected landscapes.

Historic England wished to make no comments.

Highways England has no objection subject to conditions that no more than 260 dwellings be occupied until the delivery of the A38 Derby Junctions grade separation scheme at the A38 / A5111 Kingsway junction is complete and open to traffic.

The Councillor's for Mickleover Ward at Derby City Council have raised the following objections:

- Conditions and agreement to ensure the Primary School is built at an early phase of the development to avoid any further pressure on Mickleover Primary Schools.
- Sufficient financial contribution should be secured for GP surgeries.
- The Transport Assessment is flawed and sufficient parking is not proposed with the impact considered to be severe.
- S106 monies should not be used for upgrading bus stops on Ladybank Road but pavement improvements. The proposal signalised crossing on Ladybank Road should have sufficient visibility. Upgrading zebra crossings on Uttoxeter Road is supported. Pavement improvements should take priority over cycle routes. Provision of a toucan crossing on Hedingham Way is supported. They object to the provision of a cycle lanes on Etwall Road between Ladybank Road and Station Road and speed activation signs should be considered instead. Other schemes that should be included are a puffin crossing on Ladybank Road near to Silverhill shops and improvements to Mickleover Parade.

Amber Valley Borough Council wished to make no comments.

The County Archaeologist recommends a written scheme of investigation condition due to some areas of archaeology interest where limited trial trenching would be required.

The Council's Strategic Housing Manager requests that the S106 secures 20 x 1-bed general needs flats in small, low rise blocks as well as the 20 mixed size, Lifetime Home bungalows. Additionally, the S106 will need to secure the appropriate sum for off-site affordable housing, subject to the District Valuer agreeing the appropriate sum.

Churches Together in Mickleover object on the basis that without immediate, adequate educational, medical facilities and transport infrastructure the proposal would seriously impact on the quality of life of current residents. They would welcome the opportunity to be involved in negotiations regarding the new community centre.

The County Highways Authority has no objection and recommends conditions in respect of a construction management plan, internal layout, new estate streets, highway surface water, gradients of the new estate street junctions, driveway gradients, parking, bin stores, swept path analysis and travel plan. The County Highway Authority has also made the following comments on the Travel Plan. The tenure length of the coordinator should be extended to 10 years, a detailed design of pedestrian, cycle and bus links should be supplied prior to construction, clarification of what has been agreed with the bus operator and the trigger point lowered to 500 dwellings, taster tickets should be supplied to new residents and the S016 should include a TP monitoring fee.

The Council's Contaminated Land Officer recommends a phased condition as the site is within influencing distance of historical activity that could give rise to pollution.

The Council's Environmental Health Officer has no objection subject to a condition requiring all mitigation detailed in the ES and or a noise mitigation scheme be submitted and agreed.

Sport England welcomes the confirmation of the above financial contributions for off-site outdoor and built facilities and the additional information provided in respect of planned on-site provision. Despite the limitations of the on-site area proposed for outdoor sport, which would offer modest capacity for football but appear to be too constrained for cricket, Sport England would not wish to oppose its inclusion in principle and recognises the benefit of providing a walkable facility to local residential occupiers. Subject to suitable funding and/or an agreed specification being incorporated within a S106 agreement to ensure the on-site playing pitches and ancillary changing facilities/parking would be delivered to an acceptable quality within an appropriate timescale along with suitable management arrangements, and also the securing of the financial contributions for off-site provision as set out above by S106 agreement, then Sport England would not wish to maintain an objection to the application although it points out that there may have to be some flexibility in the precise ratio of on-site/off-site provision if topography dictates.

The Lead Local Flood Authority (LLFA) has no objection subject to a condition requiring a detailed design and associated management and maintenance plan of surface water drainage.

Burnaston Parish Council objects on the basis of the traffic analysis does not represent the current usage of the A516 and the A38/A5111 transport plans should be reviewed. The proposed community hall should be completed prior to the first 50 houses being occupied. The size of the community hall is small for the size of the development and should be double the size proposed. There is no provision for healthcare with both surgeries in Mickleover at capacity. There is no clear plan for

the expansion of provision for the Secondary school. The new primary school should be provided prior to the occupation of the first 50 houses.

Derbyshire Wildlife Trust supports the proposed badger mitigation measures outlined to maintain links from existing setts to sufficient foraging habitat and these should be reflected in the final design layout. Surveys have confirmed that Skylark are a breeding species on the site. Sufficient compensation for the loss of habitat for this priority species has not been proposed. The applicant should secure nearby alternative nesting habitat for Skylark. However, should the Council be minded to approve the following conditions in respect of submission of an Ecological Design Strategy (EDS), Construction Environmental Management Plan (CEMP) and Landscape and Ecological Management Plan (LEMP) are recommended.

### **Responses to Publicity**

Thirty-three objections have been received, raising the following concerns/points:

- a) The proposal would bring the total of new housing to 1540 dwellings which would put too much pressure on local schools and doctors.
- b) The existing road congestion on Ladybank Road by construction traffic would be exacerbated.
- c) There would be increased parking on Ladybank Road as there is insufficient parking within the development.
- d) There would be an increased risk of flooding.
- e) The loss of open green spaces has a detrimental impact on the quality of life of local residents.
- f) Within the submitted documents it is stated that the water supply is constrained and reinforcement are required which is a concern that there would not be a sufficient supply of water for the proposed site.
- g) The Council must insist that the buffer zone between Ladybank Road and the site is 10m wide, is fully planted with trees and bushes and legally protected.
- h) The rural character of the area would be irrevocably changed.
- i) Mitigation in the form of downward facing lighting and the use of renewables should be considered.
- j) The buffer should be increased as 10m is not wide enough.
- k) The proposal would urbanise the National Cycle Route 54 and residents would have to travel further along Station Road to access a 'rural' walk.
- l) The new roundabout has made cycling more dangerous from Mickleover on to the A516 and proper cycle lanes should be introduced.
- m) More details of the village centre are required with the inclusion of a dentist.
- n) Better transport links between the site and Mickleover Country Park are required as compensation for the disruption.
- o) Money needs to be provided to John Port Secondary School to allow for the new pupils.
- p) The proposal would cause light pollution for residents of Radbourne.
- q) The development needs to be self-sufficient in term of facilities and services to reduce the need for use of Mickleover's existing facilities.
- r) The proposed facilities within the development are too small for example a 1000-2000m<sup>2</sup> supermarket is required.

- s) The proposed primary school should be planned at the start of the development, complete and open within 12 months of the start of development and not within phase 3.
- t) A doctors, crèche, community building are required together with a strategic review of the highway network in the area.
- u) The new facilities should be on site and not as contributions to the Council.
- v) Radbourne would be affected by increased noise levels and this should be reduced by banking/planting and fencing.
- w) Construction traffic should be directed away from Radbourne village.
- x) Screening the site from the surrounding landscape should be included.
- y) Other facilities such as health centre/ pharmacy, pub/café, play facilities including for older children, sports facilities, allotments, bins, noticeboards and a broadband upgrade in the village.
- z) There is no open space/ recreation park type facility within the development and there is a shortage locally.
- aa) There is not sufficient parking within the centre of Mickleover and some is taken up by commuters or people accessing the hospital and the centre has little room for expansion.
- bb) Increased use of Mickleover centre would create massive problems in traffic flow with the resultant disruption to bus services.
- cc) New education and healthcare facilities should be provided within South Derbyshire and new residents should be prevented from using facilities within the city boundary.
- dd) Existing Mickleover residents should be given priority in accessing healthcare over new residents.
- ee) The site would be car dependant due to the distance from Mickleover centre.
- ff) The proposal would generate around 5-6,000 cars and there is no viable plan to mitigate these vast increases in traffic in the area.
- gg) The proposal would increase congestion at Silverhill School.
- hh) An independent up to date traffic survey needs to be completed at peak times, including school runs to assess traffic flow as a projected computer model is not accurate.
- ii) A travel plan does nothing to prevent parents from using their cars as they were involved in developing one for two schools in Mickleover.
- jj) The new doctor's should be provided in the early phases of the development.
- kk) The buffer should be increased for wildlife habitat and to demarcate the district boundary and should be planted as soon as possible so they are established before houses are built.
- ll) The proposed flyovers for Kingsway and Markeaton seem to be into the future (2020) and as such the existing traffic issues shall just get worse.
- mm) For phase 1 of the development having the exit and entry from the new roundabout is dangerous as if the roundabout is blocked emergency services cannot access.
- nn) The existing footpath used by residents across the site is not preserved.
- oo) The description and Lichfields documents differ in terms of the number of dwellings.
- pp) The proposal involves building on high grade arable land, how can that be sustainable.

- qq) Derby City Council has 3,500 empty homes so why not use them instead of building on greenfield land.
- rr) Etwall Road is too narrow in places for a cycle lane.
- ss) The Travel Plan is over optimistic about the take-up of walking and cycling options and is not realistic.
- tt) Diversion of an existing bus route would increase journey times for existing residents and is not acceptable.
- uu) The traffic modelling report is not clear regarding which developments it includes.
- vv) Mickleover Library is under threat as such could the development not be approached to sponsor it.
- ww) There are concerns about security due to potential anti-social behaviour in relation to the affordable homes proposed.
- xx) The buffer planting should have a fence adjacent with lockable gates to maintain the security for existing residents.
- yy) The dwellings should be limited to 2 storeys due to privacy concerns.
- zz) The SUDS features pose a health and safety risk for children.
- aaa) Any permission should restrict the number of homes built before the A38 works are complete.
- bbb) The increased traffic generated would reduce air quality through queuing traffic.
- ccc) Has increase traffic noise been taken into account?
- ddd) The bus service should be provided sooner than after the completion of 900 dwellings.
- eee) The proposal should include a reasonable proportion of bungalows as there is a shortage in the area and a high demand.
- fff) Radbourne 8 Public Right of Way needs to be upgraded to a cycle route if links from the site are proposed.
- ggg) Street lights are required on the stretch of the A516 between the Severn Wells pub to the dual carriageway to prevent accidents.

Five letters of objection have been received in response to the re-consultation and are summarised below:

1. How can the estimated car numbers from 1100 houses not be significant and the reality is different?
2. Ambulances and fire engines already have difficulty navigating through the heavy traffic.
3. The take up of public transport or cycling / walking is not realistic.
4. Existing doctors and schools do not have capacity.
5. The shopping facilities proposed are inadequate.
6. The current public footpath shown on the north eastern boundary would need to be upgraded.
7. The proposal would significantly increase traffic impacting upon travel into Derby from villages to the west.
8. Restricting access to the hospital would put lives at risk.
9. The proposal should be restricted to 260 dwellings until after the A38 works are complete as per Highways England advice.
10. This application should be considered with consideration of all the housing planned around Mickleover.

11. The road infrastructure at this moment in time cannot deal with the increase in traffic this site will cause.
12. Until the Highways have completed the proposed under/flyovers at the three major islands this application should not proceed.
13. The extra pollution caused by extra vehicles, probably near to 3000 will be a disaster for the City pollution figures not counting the traffic deadlocks in the Mickleover area.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1(LPP1): S2 (Presumption in Favour of Sustainable Development), H19 (Land West of Mickleover), H20 (Housing Balance), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF6 (Community Facilities) and INF7 (Green Infrastructure).
- 2017 Local Plan Part 2 (LPP2): BNE7 (Trees, Woodland & Hedgerows)

## **National Guidance**

- National Planning Policy Framework (NPPF), particularly paragraphs 6-10 (achieving sustainable development), paragraph 17 (core principles), section 6 (delivering a wide choice of quality homes), section 7 (requiring good design), section 11 (conserving and enhancing the natural environment), section 12 (conserving and enhancing the historic environment) and paragraphs 203 and 206 (planning conditions)
- Planning Practice Guidance (PPG), particularly ID18a (Historic environment), ID26 (Design), ID8 (Natural environment) and ID21a (Conditions)

## **Local Guidance**

- South Derbyshire Design Guide SPD
- Affordable Housing SPD

## **Planning Considerations**

The main issues central to the determination of this application are:

- Principle of development
- Traffic and transport
- Ecology
- Urban design and open space
- Residential amenity
- Drainage and flood risk
- Heritage impacts
- Landscape and visual impacts
- Affordable housing

- S106 contributions
- Conclusion

### Principle of development

The proposed development relates to a strategic housing allocation within the LPP1 at Policy H19, Land West of Mickleover, which allows for the development of around 1,650 dwellings with this application for 1,100 dwellings being the final and largest element of the overall site. The policy requires a one-form entry primary school on site with land to allow expansion to a two-form entry; a district centre with a range of shops and facilities; a community centre; consideration of a GP surgery; high quality pedestrian and cycle links; green buffers to the countryside boundaries; the protection of Radbourne Hall and its setting; access to part of the allocation to be via Ladybank Road; green infrastructure, protection of the Greenway to north and Ladybank Plantation; surface water attenuated to 1 in 100 year plus climate change. It also seeks to ensure that SDDC and Derby City Council as well as the developers work together to provide a holistic vision for an urban extension, suitably co-ordinated as well as a jointly prepared development framework.

In terms of compliance with policy the proposal includes the primary school, a retail offer, community building, allowance for GP surgery if required on site (or a financial contribution for healthcare if not), high quality pedestrian and cycle links, green buffers and protection of the Greenway and Ladybank Plantation, and surface water control.

The City Council state that they have sought to work collaboratively with SDDC, Derbyshire County Council and the applicants to address the impacts of the development on the City, its residents and infrastructure. They state that no Development Framework Document, DFD, for the urban extension has been developed in line with criterion (b)(ii) of LPP1 Policy H19 but note that the application has been amended to revise, amongst other things, the scale and layout of the local centre. They state that whilst significant progress has been made on elements of scheme, notably the transport mitigation package, and negotiations now appear to be moving in a positive direction, they consider that there are significant areas of detail still to be finalised, namely masterplanning, transport mitigation as well as on other key considerations such as affordable housing.

Notwithstanding the comments received from the City, the proposal has been developed over many months and as such is now considered acceptable in principle in terms of urban design, connectivity, green infrastructure etc., as discussed in more detail below, and the submission demonstrates how the quantum and nature of the development proposed can be accommodated in such a way so as to ensure that a high quality environment is created. As such, despite their request, the masterplanning is considered acceptable and whilst no formal consultative DFD was submitted, there is more than adequate information in the Design and Access Statement to demonstrate how a development could be delivered in an appropriate way at reserved matters stage. In terms of affordable housing, this is addressed in more detail below but the advice of the Council's

Housing Strategy Manager is to secure a small amount of specialist affordable housing on site with the remainder in the form of an off-site contribution for projects in this District rather than the City (although at the time of writing discussions with the City are still taking place). The retail offer was amended following discussions with the City Council, who now advise that the proposal strikes a balance between providing for the day to day needs of local residents whilst alleviating some of the pressure on services in Mickleover District Centre without creating additional transport impacts.

Notwithstanding the comments received, Officers of the Council have tried to engage positively with the City Council and it is considered that the principle of the development generally accords with the requirements of LPP1 Policy H19.

### **Traffic and transport**

The application is in outline form only with the matter of access to the site for approval at this stage, all other matters reserved for future approval, and therefore the suitability of the access arrangements proposed have to be critically examined. The vehicular access to the site would be via the newly constructed estate road which has been delivered as part of the adjacent scheme to the south-east which itself connects with the newly constructed roundabout on the A516. Furthermore, bus connection points are provided to link with the recently approved housing scheme off Swayfield Close which connects, for buses only, to Ladybank Road via Taplow Close, as well as indicative pedestrian/cyclist connections to that scheme along with Old Etwall Road to the south-east. The transport chapter of the Environmental Statement advises that the proposed development would incorporate a package of measures to mitigate the minor adverse to negligible environmental effects of the traffic generated and the measures are focused around sustainable transport strategies aimed at limiting the demand for private car travel generated by the development and improvement to junctions. It states that in line with local and national policy, the proposed development incorporates a comprehensive package of measures to mitigate the transport related environmental effects which would also have benefit even at those junctions not materially affected by the development. The package of measures focuses around sustainable transport strategies and demand management aimed at reducing the demand for private car travel generated by the development. The document concludes that the proposed mitigation measures would result in a negligible environmental effect in terms of the transportation effects of the proposed development and some beneficial effects for non-motorised road users.

The submitted plans accommodate a bus corridor, so that if there is a desire for buses to penetrate the allocation as a whole, there is a suitable bus link from Ladybank Road to the A516 which buses would pass through. The point of this provision is to allow a connection to the existing estate which is currently served by the Mickleover bus service and links into the Mickleover district centre, the Derby Royal Hospital and city centre beyond. The need for this provision has been examined as part of this application and resulting traffic analysis for the allocation as a whole and it is considered appropriate to accommodate that eventuality should it be considered necessary. Furthermore as part of the highway mitigation strategy one of the projects that the S106 would be able to financially support is a bus service.

The highway safety implications of the development are considered to be acceptable to the County Highway Authority in terms of the County's local road network, and it is also noted that Highways England raises no objection to the proposal in terms of the impact on the strategic road network. The City Council initially raised concerns about the impact of the development on their local highway network but following discussion with the applicant and Highways England, a transport mitigation package for the local road network is broadly agreed in terms of the cost and range of schemes in the overall package of potential measures. The applicant is proposing that, as part of the S106 agreement, they would make a financial contribution towards highway mitigation measures. Projects totalling £2,725,325 would provide a range of highway mitigation measures that would address the impact of this development as well as the 252 dwellings consented adjacent off Swayfield Close, and towards which that developer is already obliged to make a contribute. A number of projects including, amongst other things, the provision of crossings, cycle route extension/improvements, public transport subsidy, etc. have been identified in order to encourage future occupiers to use alternative modes of transport other than the private car to access the city and its wide range of services.

A development of this scale would inevitably have an impact on the highway network. The City Council advises that strategic mitigation options have not been tested to inform the transport assessment for this site, which means that obligations to test the development, in a manner consistent with the rest of the strategic sites in the adopted Local Plans, have not been entirely fulfilled. They also state that network wide tests have not been carried out to understand the impact of the development in the absence of the A38 Derby junction grade separation scheme. However, the proposed highway mitigation package combined with the delivery of interim changes to the A38/A5111 Kingsway roundabout (traffic signals and lane reconfiguration) as well as the longer term delivery of the A38 grade separation at that junction, would be adequate to accommodate the development, subject to the highway mitigation package being able to be delivered flexibly. This flexibility is requested by the City Council who have stated that it is fundamental to Derby's ability to support the proposed mitigation package as further work will be required to determine how specific mitigation measures are secured, including timing and triggers, as more information comes to light.

It should be noted that the site forms the major part of a wider allocation for around 1,650 dwellings in Policy H19 of the Adopted South Derbyshire Local Plan Part 1, referred to as Land West of Mickleover. The NPPF makes it clear in paragraph 32 that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. In this case there is no evidence that the cumulative impact would be severe with appropriate mitigation in place. Policy S6 of the LPP1 states that the Council would seek to minimise the need to travel; encourage modal shift from the private car by seeking patterns of development to minimise travel distance; provide new or enhanced walking, cycling and public transport infrastructure and use promotional measures to encourage communication to encourage sustainable travel. Policy H19 of the LLP1 also states, amongst other things, that the development of this allocation would provide high quality pedestrian and cycle routes and the application is accompanied by an assessment of the highway network as well as an access strategy and mitigation

measures, including off-site highway improvements, measures for non-car transport as well as enhancements to local bus services.

The proposed highway mitigation measures achieve the aims of the local plan policies and it is noted that no objection has been raised by either the County Council or City Council as Local Highway Authorities in terms of the impact on the local road network. The County Highway Authority in its response advises that it is mindful that a number of incidents involving individual loss of vehicle control have occurred since the opening of the new roundabout on the A516. They advise, however, that the design and construction of the roundabout has been thoroughly investigated and safety audited and that process will be ongoing during the 12 months maintenance period for the works. They advise that the circumstances surrounding these incidents has been, and continue to be, scrutinised but reveal no clear pattern or underlying flaw in the scheme. They advise that whilst the arm of the roundabout serving the application site is currently only subject to construction traffic, there is no evidence to suggest that additional turning movements to and from this minor road arm would exacerbate the circumstances which led to the earlier incidents.

The issue of increased traffic and congestion is further complicated by the fact that there are three Air Quality Management Areas (AQMAs) identified in Derby, namely the Inner Ring Road, the Outer Ring Road and the A52 around Spondon. This development would directly affect the Inner and Outer Ring Road which include the Uttoxeter Road corridor. Whilst the site itself is considered to be well suited to residential development in terms of air quality, LPP1 Policy SD1 requires consideration to be had in respect of the potential for a development to affect designated AQMAs and in this case one of the key considerations, in line with the City's strategy, is to look to achieve modal shift, with public transport financial and enhanced cycle facilities supported through the S106 mitigation contribution. As such it is considered that in terms of air quality resulting from the development, the proposals adhere to local and national planning policy.

In terms of the impact on the strategic road network it is noted that Highways England raise no objection to the proposal subject to conditions limiting the occupancy in advance of the delivery of interim changes (traffic lights and lane reconfiguration) to the A38/A5111 Kingsway roundabout as well as the delivery of the A38 grade separation at that junction. It is considered appropriate for this development to contribute towards a proportion of the package of traffic mitigation measures that are likely to result from the wider allocation and for which this is a part. Notwithstanding the comments received, in highway safety terms, subject to the provision of a financial contribution to secure highway mitigation measures, the proposal is considered to be acceptable. It is, however, noted that the City Council has based its response on the response of Highways England which require conditions to secure the provision of interim changes (traffic signals and lane reconfiguration) to the A38/A5111 Kingsway roundabout as well as the delivery of the A38 grade separation at that junction.

The proposal does provide appropriate accessibility and offers realistic opportunities for the use of alternative modes of transport to and from the Mickleover area, Royal Derby Hospital and the city centre as well as towards schooling and leisure facilities

in Etwall. There is no evidence to show that the proposed development would have any undue impact on the highway network and thus the potential to affect the wider transport infrastructure.

The County Council as Highway Authority is content with the proposals and has provided conditions they wish to see imposed should permission be granted. Ongoing discussions continue to take place with the applicant, the City Council Highway Officers as well as Highways England in respect of the thresholds provision of interim changes to the A38/A5111 Kingsway roundabout as well as the delivery of the A38 grade separation at that junction. Currently they stipulate no dwellings should be occupied until the interim changes are provided, and no more than 260 occupied before the delivery of the A38 grade separation at that junction. Derby City Council has asked for the ability to add to/amend any conditions after the committee meeting and for them to be a signatory to the Section 106 agreement. The conditions and thresholds referred to are required by Highways England and it is considered that if the principle recommendation to approve the development is agreed, that delegated authority be given to the Planning Services Manager to further explore the conditions recommended by Highways England as well as others that may be requested by Derby City Council. The inclusion of the City Council as a signatory to the Section 106 agreement is considered to be unnecessary since it can be appropriately concluded without its signature and could further delay the delivery of the site. The City Council will, however continue to be consulted on the detail of the agreement as it progresses.

At the request of the City Council the applicants have indicated that they are willing to safeguard the potential for an extension to the local distributor road serving the development from the newly constructed A516 roundabout that could in the future connect the development northward to Radbourne Lane providing a full public transport access with a minimum width of 6.75m. This is not in the current Section 106 package but is a matter that could be included within planning conditions and can be pursued in discussion with the City Council in relation to the conditions when finalised.

The highways impact of the development is, therefore, considered to be acceptable subject to the final detailing of conditions proposed by the County Council as Highway Authority and further conditions requested by the City Council and Highways England.

## **Ecology**

LPP1 Policy BNE3 states that proposals with a direct or indirect impact on priority habitats and species would need to be supported by appropriate surveys and assessments in order to understand the likely impacts and mitigation proposed. The application is accompanied by an Ecology Survey which identifies bat roosts and makes recommendations accordingly. The submitted ecological reports found that in terms of wildlife and protected species there were no significant constraints and the submitted reports were assessed by Derbyshire Wildlife Trust (DWT) who considers that the ecological reports have generally been undertaken appropriately. The site contains numerous trees and hedgerows including those along existing field boundaries. The submitted plans, whilst illustrative, show how the development

could be achieved whilst respecting the trees and hedges on site. DWT have unresolved concerns in respect of the impact of the development on Skylarks which are ground nesting birds, which would be displaced as a result of the development and for which there is no mitigation planned. Additional information was supplied by the applicant's ecologist which states that it is demonstrable that the species has only recently taken advantage of opportunities presented by agricultural changes in land use within the site as it approaches development and they do not consider the site to be an important breeding ground nor a 'stronghold' for Skylark. Notwithstanding the concerns expressed by DWT, the applicant's ecologist does not consider this to justify further mitigation taking into account biodiversity as a whole.

It is considered that refusal of the application could not reasonably be justified on the grounds of impact on Skylarks when they have only in recent years appeared on the site and likely only as a result of changed land management as the site moves forward as a strategic housing allocation. On balance it is likely that net gains would be achieved at the site for other species (as per Policy BNE3) and particularly for glow worms, some bats species, hedgehogs, amphibians, and other protected bird species, which outweigh the transitory impact on Skylarks.

On-site habitats are to be provided and managed for wildlife such as ponds, hedgerows and grassland and these habitats would be safeguarded in the future. Notwithstanding the concerns of DWT it is considered that, subject to the other recommended conditions of DWT, biodiversity at the site would be adequately accommodated.

### **Urban design & open space**

The application is in outline only and all matters except for access reserved for future approval, therefore it is not possible to carry out a full Building for Life assessment at this stage. Nevertheless, the proposal presents some key aspects that would form the basis of a good scheme in urban design terms. It would be close to a frequent, high quality public transport facility which routes along Ladybank Road serving the city centre, Derby Royal Hospital and Mickleover District Centre and within an acceptable distance of numerous facilities within the city, including educational, commercial and community facilities and would provide an opportunity and financial support for bus services to access the site. The proposed development allows for the provision of a range of facilities e.g. retail, community, education facilities and these factors would help to make it a sustainable development. The illustrative masterplan incorporates features promoted by the Council's Design Excellence Officer and it is considered that the masterplan provides a reasonable basis from which the development can be planned and evolved, although issues relating to design and layout of the houses, how they relate to spaces, crime reduction measures and the provision of parking, would be addressed through reserved matters submissions.

There were originally concerns in regards to the quantum and typologies of open space, quantum of playing pitches, as well as the resulting impact on existing facilities, including from Sport England. However, following negotiations with the applicants, further details have been provided which show a good level of open space overall, including a useable amount of playing pitches as well as the provision of an off-site financial contribution of £415,000 towards outdoor provision and

£328,244 towards built facilities. The scheme would also provide a community building with changing rooms on site which would all ensure that the recreational needs of the future population is provided for. This situation strikes an appropriate balance between on-site and off-site provision to ensure that, in terms of the urban design and open space/recreational matters considered above, the proposal would accord with Chapter 8 of the NPPF and the Council's Design SPD.

### **Residential amenity**

The site is immediately adjacent to the established residential properties on Greenside Court and Ladybank Road and the development of the site would clearly have a significant impact on the nearest of those properties. However, the proposals show that adequate separation could be achieved to deliver the development, even taking into account site levels, to ensure that occupiers of those dwellings would not be unduly affected by the proposal, although the interrelationship between the new homes and those existing would be properly assessed at reserved matters stage. Equally, a layout and design that accords with the Design SPD would be assessed at reserved matters stage. In the meantime the illustrative scheme demonstrates that the site provides ample scope for reasonable amenities in terms of light, air and privacy for both existing and new dwellings; safe, functional and convenient layouts; private amenity space, and space for landscaping. In terms of policy compliance, the proposals are considered to be in accordance with LPP1 Policy SD1 which seeks to support development that does not lead to adverse impacts on the amenity of residents.

### **Drainage and flood risk**

Severn Trent Water (STW) has a duty to ensure that the development is served by adequate water supply under the relevant legislation. The drainage strategy states that water efficiency measures would reduce potable demand including:

- a) Low flow fittings: low flush toilets, spray taps and low flow showers;
- b) Efficient water supply: leak detection, smart meters and pressure reduction; and
- c) Water from alternative sources: Greywater recycling, rainwater harvesting.

STW has advised the applicant that a connection point for foul flows can be made into the public sewer system to the south-east of the site. However, the Environment Agency has stated that there is an existing lack of capacity in the foul sewerage system in this part of Derby and that this development, in the absence of improvements to the foul sewerage system, has the potential to increase the frequency and volume of discharges from combined sewer overflows (CSOs) and exacerbate foul flooding problems. This issue is identified in the Derby Housing Market Water Cycle Study (WCS). The Environment Agency states that options to deal with this issue are being explored but have yet to be finalised or implemented but are confident that solutions will be available and are therefore content to recommend a planning condition in this instance. A conditional approach is therefore considered appropriate in regards to foul water.

The site itself is not at risk from flooding, being in Flood Zone 1. At this outline stage the current plans for the use of Sustainable Urban Drainage System (SUDS) to

dispose of surface water in mini/sub catchments from the proposed development are above ground and are considered acceptable by the Lead Local Flood Authority (LLFA) and demonstrate the principles and aims of Sustainable Drainage which is to improve water quality, amenity and biodiversity. Surface water runoff from the proposed development would, insofar as is possible, be managed in a sustainable manner to mimic the surface water flows arising from the development prior to implementing the development. The Environment Agency has raised no objection and the Lead Local Flood Authority (LLFA) is satisfied that its concerns have been addressed and that the site can be appropriately drained. SUDS principles are to be incorporated into the scheme, as shown on the illustrative masterplan in the form of surface water attenuation areas to the west of the housing.

In summary, the Environment Agency and Lead Local Flood Authority (LLFA) have stated that they raise no objection to the proposal subject to conditions to secure the requisite details of surface water drainage and fulfilling policy objectives to ensure that flood risk is not exacerbated on or off the site. Notwithstanding the comments submitted, in terms of flood risk the proposal is considered to be acceptable.

### **Heritage impacts**

In terms of heritage assets as defined by the NPPF, the overall development site does not contain any designated heritage assets, (i.e. Listed Buildings, Scheduled Monuments, Conservation Areas, etc). However, there is a recognised archaeological interest on and around the site, in term of evidence of medieval agriculture (below ground ridge and furrow field patterns). The proposal would not impact on Mickleover Conservation Area or listed buildings around the historic core of the Mickleover. There are, however, a number of listed buildings upon whose setting the development would potentially impact, which have been analysed in more detail.

Radbourne Hall is a particularly important Grade I listed building which is surrounded by a significant parkland setting designed by Emms. However, due to nearby and proposed vegetation combined with the separation distance, the impact on the heritage asset is not considered to be significant. Other assets in the vicinity are in the form of three listed farmhouses, Potlocks Farmhouse, Smerrills Farmhouse and Silverhills Farmhouse, but again the impact of the development on the setting of those buildings is considered insignificant.

The site has been the subject of a detailed geophysical survey and the results suggest that the land has been under agricultural management from at least the medieval period. Below ground evidence for medieval open field boundaries and ridge and furrow cultivation were identified throughout the survey area. Later improvements to the agricultural land were also identified, with an extensive network of land-drains identified. Former field boundaries, extant on early editions of the Ordnance Survey, were also identified. The survey did not conclusively identify features of archaeological interest that could pre-date the medieval agricultural use of the land; although a small number of such features were located. The County Archaeologist advises that in view of the results, and the limited archaeological interest which has been identified through the evaluation of land immediately to the south and east of the development area, whilst further evaluation work is necessary,

he recommends that this can be done at a post-determination stage. The County Archaeologist raises no objection subject to conditions in line with NPPF para 141. This approach is considered to be appropriate and proportionate and as such would be compliant with LPP1 Policy BNE2 which expects heritage assets to be protected and NPPF Chapter 12.

The site was assessed in terms of the impact of the development on the setting of heritage assets through the local plan process and the criteria in LPP1 Policy H19 reflect this. Care would be needed when the reserved matters are considered but the submission at this outline stage provides a sound basis to conclude that the development would not adversely affect heritage assets. Overall, it is considered that the proposed development suitably conditioned would respect and safeguard the potential archaeological interests on the site.

### **Landscape and visual impacts**

The site carries no statutory or local landscape designations and has not been identified as sufficiently special for any other reason hence its allocation for development in the LPP1. One of the core planning principles in the NPPF at paragraph 17 is to recognise the intrinsic character and beauty of the countryside. However, this can be mitigated to a certain extent through good design. There is a clear opportunity to provide a built form that creates a high quality environment incorporating local distinctiveness in accordance with paragraph 60 of the NPPF and the detail would be considered at reserved matters stage, the submission provide a sound basis for this to happen and the development would appear as a logical extension to the city.

### **Affordable housing**

Policy H21 of the LPP1 sets a starting point of 30% of the dwellings to be for affordable housing purposes on developments over 15 dwellings. Policy H20 of the LPP1 states, amongst other things, that the Council will seek to provide a balanced of housing including type, tenure, size and density whilst the NPPF advocates a need to provide a range of housing options. The Strategic Housing Market Assessment (SHMA) also evidences such a need. As a starting point the first option explored has been for on-site provision to provide 30% of the dwellings for affordable purposes giving rise to a range of dwellings for social/affordable rent and shared ownership purposes, helping to boost affordable housing delivery and contribute to current shortfalls in provision. Following advice from the Council's Strategic Housing Manager, it is felt that the provision of a small amount of on-site specialist affordable housing and the larger balance taken in the form of an off-site financial contribution would be appropriate in this case. She advises that whilst we would normally prefer on site affordable provision instead of the commuted sum payment, we have an exceptional demand for specialist housing (extra care/adapted bungalows/larger family homes etc.) within the District and this would be a one off opportunity for the Council to secure a large commuted sum from the developer to meet that identified need. On this basis she advises the on-site provision of 20 x 1-bed general needs flats in small, low rise blocks as well as the 20 mixed size, Lifetime Home bungalows. The remainder would be provided by the payment of a commuted sum from the developer to go towards the building/replacement/acquisition or

regeneration of affordable housing with a 10 year timeframe to deliver off-site projects. She advises that this approach would be the optimum outcome for the District Council as we would be meeting identified need with the greatly reduced on-site provision whilst enabling the Council to develop specialist housing where it is actually needed for the longer term.

In the reply from Derby City Council they have noted that affordable is to be in the form of a contribution to off-site provision rather than securing new affordable dwellings on site. They consider that this falls short of what the LPP1 requires both in terms of delivering an appropriate housing balance as required by LPP1 Policy H20 and the requirement to only accept off site contributions to affordable housing where there is 'exceptional justification' as referred to in Para. 5.84 of the supporting text to policy H21.

Ordinarily a development of 1,100 dwellings would deliver 330 affordable homes on site whereas the advice of the Council's Strategic Housing Manager is for the provision of 40 affordable (bungalows and 1 bed flats) on site. The comments of the City Council are noted, as are the requirements of LPP1 policies H20 and H21. However, on the advice of the Council's Strategic Housing Manager, the provision of an off-site financial contribution to allow for the building/replacement/acquisition or regeneration of affordable housing exceptional demand for specialist housing (extra care/adapted bungalows/larger family homes etc.) within the District is precisely why the allowance exceptional justification is made in the policy.

The outstanding issue is the level of off-site contribution which would need to be secured in the S106. The level would need to be carefully calculated and on this basis input from the District Valuer (DV) would be required to ensure that the amount is appropriate. Delegated Authority is sought to the Planning Services Manager to secure the appropriate sum for off-site affordable housing in consultation with the DV. On the basis of the mix of on-site and off-site contribution in affordable housing terms the proposal is considered to be acceptable.

### **Section 106 contributions**

As referred to above the Council's Strategic Housing Manager requests that the S106 secures 20 x 1-bed general needs flats in small, low rise blocks as well as the 20 mixed size, Lifetime Home bungalows. Additionally, the S106 will need to secure the appropriate sum for off-site affordable housing, subject to the District Valuer agreeing the appropriate sum.

A new one form entry primary school with land and core facilities to allow expansion to two form entry will need to be secured to address the lack of capacity at primary school places within existing schools.

The County Planning Policy Officer seeks developer contributions that would likely be required as a result of the anticipated impact of the proposed development on strategic infrastructure and statutory services. These include:

1. £2,834,068.05 for the provision of 165 secondary places at John Port School towards Project H - additional accommodation; or the new south Derbyshire

secondary school (under Derbyshire County Council's secondary strategy);  
and

2. £1,229,441.40 for the provision of 66 post16 places at John Port School towards Project H - additional accommodation or the new south Derbyshire secondary school (under Derbyshire County Council's secondary strategy).

In terms of green infrastructure generally, an appropriate amount would need to be secured as follows:

1. A minimum of 3.47 ha of formal open space,
2. A minimum of 2.81 ha of informal open space,
3. A minimum of 0.51 ha of provision for children and young people, and
4. A minimum of 1.70 ha of outdoor sports facilities

Furthermore, a NEAP to provide a minimum of 1,000 sq. m of activity space, including at least 465sq.m. hard surfaced MUGA (e.g. 5-a-side size) and a children's play area as well as other LEAPs around the development would need to be secured.

An off-site financial contribution of £415,000 is required for outdoor sports provision in the area or at Etwall Leisure Centre and an off-site financial contribution towards built facilities of £328,244 towards the provision of built facilities in the area or at Etwall Leisure Centre, is required.

The contribution of £418,440 requested by the NHS Southern Derbyshire CCG towards Mickleover Surgery and Mickleover Medical Centre expansion is considered reasonable, although at this stage the NHS does not have a sufficiently advanced project to refer to, therefore the S106 will need flexibility for that project to be identified at the point in time when the contribution is triggered.

The provision of a community building to serve the future occupiers is appropriate and necessary and the applicant estimates the cost of the building such a facility to be circa £608,000 based on a combined community hall and changing room gross external area of 630sq. m. It should be noted that the developer of the 252 dwellings consented adjacent off Swayfield Close are already obligated to contribution towards the community building (£185,000) which would form part of the overall contribution figure suggested. The applicant would need to contribute the balance of the amount in the S106, i.e. £423,000.

In terms of highway mitigation the applicant has looked to address the impact of the 1,100 dwellings proposed in addition to the 252 already consented. The approach to highway mitigation is agreed in terms of the overall amount that this development in conjunction with the developer of the 252 dwellings off Swayfield Close, would need to contribute between them, totalling £2,725,325. This would be used to provide a range of highway mitigation measures which could reflect those projects identified by the applicant to address the impact of this. The applicant would need to contribute the balance of the amount in the S106 taking into account the contribution from the developer of the 252 dwellings off Swayfield Close which is already obligated.

From a planning point of view, legislation states that there are legal tests for when a S106 agreement can be utilised and these are set out in regulation 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 as amended (and as set out in para. 204 of the NPPF). S106 agreements, in terms of developer contributions, need to address the specific mitigation required by the new development. The tests are that they must be:

1. Necessary to make the development acceptable in planning terms
2. Directly related to the development; and
3. Fairly and reasonably related in scale and kind to the development.

In this case it is considered that the provision of the above is compliant in principle.

### Conclusion

The proposal is considered to represent an opportunity to deliver a sustainable extension to Derby in accordance with the recently adopted Local Plan with an opportunity to provide a range of facilities in a manner which will integrate well with the existing development.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

### **Recommendation**

**A.** That delegated authority be granted to the Planning Services Manager to conclude the following:

- i) Securing the appropriate level of financial contribution for the S106 for the community building if not provided on-site by the developer;
- ii) Securing the appropriate level of financial contribution for the S106 for the off-site affordable housing contribution in consultation with the District Valuer;
- iii) Securing all other reasonable contributions through on-going detailed negotiation;
- iv) Any reasonable conditions/informatives requested by Derby City Council and Highways England following the conclusion of on-going discussions.

**B.** Subject to A, **GRANT** permission subject to the following conditions:

1. a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of ten years from the date of this permission.  
b) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.

2. Approval of the details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") for each phase or sub-phase of the development shall be obtained from the Local Planning Authority in writing before any development is commenced in that phase or sub-phase. Plans and particulars of the reserved matters for each phase or sub-phase of the development shall be submitted in writing to the Local Planning Authority and the development of each phase shall be carried out as approved.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.

3. The development hereby approved shall be implemented in accordance with the approved plans unless otherwise agreed in writing by the Local Planning Authority. The approved plans are:

- a) Site Location Plan (Ref: IL50105-000 Rev C)
- b) Parameter Plan - Land Use & Extents (Ref: PS50105-063 Rev C)
- c) Parameter Plan - Access & Movement (Ref: PS50105-067 Rev C)
- d) Parameter Plan - Heights (Ref: PS50105-065 Rev C)
- e) Parameter Plan - Density (Ref: PS50105-066 Rev C)
- f) Parameter Plan - Landscape & Open Space (Ref: PS50105-064 Rev C)
- g) Proposed Shared Footway (Old Etwall Road) (Ref: 10-117-TR-048)

Reason: For the avoidance of doubt and to specify the plans to which the permission relates.

4. The Phase 2 Proposed Shared Footway/Cycleway on Old Etwall Road, Ref: 10-117-TR-048 shall be provided prior to the occupation of the 50th dwelling in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. The route shall be maintained throughout the lifetime of the development available for public use along its entire length.

Reason: In the interests of providing a sustainable development.

5. No development shall commence until a scheme for phasing of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme for phasing shall show the boundaries of the proposed phases of the development and shall include reference to the provision of the children's play spaces and other open spaces. The development shall be carried out in accordance with the approved scheme unless otherwise agreed through the approval of an updated phasing scheme for the development.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory and that the development proceeds in an orderly manner.

6. Notwithstanding the submitted master plan, the reserved matters submitted in accordance with condition 2 shall include the following urban design principles:

- a) The creation of separate character areas in accordance with the principles set out in the submitted Design and Access Statement [D&AS] [§§7.15-7.18].
- b) The provision of greenway routes/green corridors to connect key green spaces in accordance with the principles set out in the submitted D&AS [§§7.42-7.53 and the Green Infrastructure Plan, Planting Plan & Play Areas Plan].
- c) Provision for future pedestrian and cycle access as indicated in the submitted D&AS [§§8.3-8.7 and the Movement Plan].
- d) The creation of a 'village centre' comprising an area of shops, community facilities and open space as described in the submitted D&AS [§7.19-7.22 and §§7.28-7.29] as well as Indicative Local Centre and Playing Field Detail ID50105-091.
- e) The provision of a centrally located primary school as described in the submitted D&AS [§§7.23-7.27].
- f) Measures to minimise the risk of crime to meet the specific security needs of the application site and the development.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.

- 7. No development of a particular phase or sub-phase shall commence before details of the finished floor levels of each building within the phase or sub-phase and any regrading works have first been submitted to and approved in writing by the Local Planning Authority. The buildings within that phase or sub-phase shall be constructed in accordance with the approved details.

Reason: To protect the amenities of adjoining properties and the locality generally.

- 8. No development of a phase or sub-phase shall take place until details of the materials proposed to be used within the phase on the surfaces of the roads, footpaths, car parking areas and courtyards along with samples of the materials to be used on the external surfaces of the buildings have been submitted to and approved in writing by the Local Planning Authority. The development of each phase or sub-phase shall be carried out using the approved materials unless otherwise agreed in writing with the Local Planning Authority.

Reason: To safeguard the appearance of the buildings and the locality generally.

- 9. Each reserved matters application for a phase or sub-phase of development, submitted in accordance with condition 2, shall be accompanied by a detailed lighting plan to which it relates for submission to and approval in writing by the Local Planning Authority. No development on the relevant phase or sub-phase of the development shall take place except in complete accordance with the approved plan and details unless otherwise approved in writing by the local planning authority.

Reason: To safeguard the character and visual amenities of the site and wider area.

10. No development of a phase or sub-phase shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected within that phase or sub-phase. The boundary treatment shall be completed in accordance with a timetable agreed in writing with the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of the appearance of the area.

11. Each reserved matters application for a phase or sub-phase of development, submitted in accordance with condition 2, shall be accompanied by details of how the use of wholesome water within each dwelling will be controlled. The objective of the controls/equipment will be to limit the estimated consumption of wholesome water by persons occupying the dwelling to 110 litres per person per day consistent with the Optional Standard as set out in G2 of Part G of the Building Regulations (2015). The development shall be carried out in accordance with the approved details.

Reason: To reduce water demand locally.

12. No development of the relevant phase or sub-phase of the development which includes playing field provision as set out in the Phasing Scheme (approved in accordance with condition 5) shall take place unless and until:
- a) A detailed assessment of ground conditions of the land proposed for the new playing field land shall be undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and
  - b) Based on the results of this assessment to be carried out pursuant to (a) above of this condition, a detailed scheme to ensure that the playing fields will be provided to an acceptable quality (including appropriate drainage where necessary) shall be submitted to and approved in writing by the Local Planning Authority.

The works shall be carried out in accordance with the approved scheme within a timescale to be approved in writing by the Local Planning Authority.

Reason: To ensure that the site surveys are undertaken for playing fields and that any ground condition constraints can be and are mitigated to ensure provision of an adequate quality of playing fields.

13. The playing fields laid out in accordance with condition 12 shall be used for Outdoor Sport and for no other purpose (including without limitation any other purpose in Class D2 Use Classes Order 2005, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: To protect the playing field from loss and to maintain the quality of and secure the safe use of sports pitches.

14. The trading hours of the Class A1 floorspace hereby permitted shall be restricted to 07.00 to 23.00 daily and the Class A3/Class A4 floorspace hereby permitted shall not trade between the hours of 24.00 and 07.00 daily.

Reason: In order to minimise the impact of the proposed use upon the amenities of the residents of nearby properties

15. All hard and soft landscape works approved pursuant to the landscaping reserved matters approval shall be carried out in accordance with the approved details and finished not later than the first planting season following completion of the relevant phase or sub-phase of the development. Any tree or shrub which forms part of the approved landscaping reserved matters approval which within a period of five years from planting fails to become, established, or becomes seriously damaged or diseased, or dies, or for any reason is removed, shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the area.

16. No site clearance works or development of a phase or sub-phase shall take place until there has been submitted to the Local Planning Authority for their written approval a scheme showing the type, height and position of protective fencing to be erected around each tree or hedgerow to be retained in that phase. The scheme shall comply with BS 5837:2012.

The area within each phase or sub-phase surrounding each tree or hedgerow within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

- a) There shall be no changes in ground levels;
- b) No material or plant shall be stored;
- c) No buildings or temporary buildings shall be erected or stationed;
- d) No materials or waste shall be burnt within 20 metres of any retained tree or hedgerow; and
- e) No drain runs or other trenches shall be dug or otherwise created; without the prior written consent of the Local Planning Authority.

Reason: In the interests of the appearance of the area.

17. For any phase or sub-phase no works which include the creation of trenches or culverts or the presence of pipes within the phase shall commence until measures to protect badgers and hedgehogs from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the local planning authority. The measures may include:

- a) creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and
- b) open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.

The approved measures shall be implemented as part of the development of the phase.

Reason: To ensure adequate protection of the species

18. No development shall take place until an Ecological Design Strategy (EDS) addressing mitigation, compensation and enhancement has been submitted to and approved in writing by the local planning authority.

The EDS shall include the following.

- a) Details of retained habitats
- b) Details of newly created habitats including ponds and swales
- c) Identification of green corridors
- d) Locations and specifications for a range of bird boxes in line with the recommendations in section 5.2.12 of the Ecological Appraisal dated February 2017 to include the installation of boxes in the fabric of the new houses for house sparrow, swift and starling, the erection of boxes on trees for cavity dwelling species and the installation of a barn owl box.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To ensure ecology is adequately addressed.

19. No development shall take place (including ground works and vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones"
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (to include consideration of lighting) (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure ecology is adequately addressed.

20. No development shall take place until a Construction Management Plan (CMP) has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for the storage of plant and materials, site accommodation, loading, unloading of goods vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being

carried onto highway and any proposed temporary traffic signing or restrictions.

Reason: In the interests of highway safety and amenity.

21. Notwithstanding the submitted drawings, any subsequent reserved matters of full application shall include the internal layout of the site in accordance with the Highway Authority's 6Cs Design Guide and national guidance laid out in Manual for Streets.

Reason: In the interests of highway safety.

22. No new dwelling shall not be occupied until the proposed new estate street, between each respective plot and the existing public highway, has been laid out in accordance with the approved application drawings to conform to the County Council's design guide, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads.

Reason: In the interests of highway safety.

23. Works shall not commence on site until a scheme for the disposal for highway surface water has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and retained accordingly thereafter.

Reason: In the interests of highway safety.

24. The gradient of the new estate street junctions shall not exceed 1:30 for the first 10m and 1:20 thereafter.

Reason: In the interests of highway safety.

25. Driveway gradients shall not exceed 1:20 for the first 5m and never exceed 1:12.

Reason: In the interests of highway safety.

26. Space shall be provided within the site for the parking of vehicles on the basis of 2 spaces for 2 or 3 bedroom dwellings, 3 spaces for 4 or 4+ bedroom dwellings. For the avoidance of doubt, where a garage is classed as a parking space, the internal dimensions shall measure at least 3m x 6m for a single and 6m x 6m for a double garage.

Reason: In the interests of highway safety.

27. Bin stores shall be provided within private land at the entrance to shared private accesses, in accordance the application drawing, to prevent refuse bins and collection vehicles standing on the new estate street for longer than necessary causing an obstruction or inconvenience for other road users. The facilities shall be provided prior to the first occupation of the dwellings to which they relate and shall be retained thereafter free from any impediment to their designated use.

Reason: In the interests of highway safety.

28. Any reserved matters application should be accompanied by a swept path analysis to demonstrate that service and emergency vehicles can successfully enter and manoeuvre within the site.

Reason: In the interests of highway safety.

29. Notwithstanding the submitted details, a revised Travel Plan shall be submitted, approved in writing and implemented in accordance with the timescales specified therein, to include those parts identified as being implemented prior to occupation and following occupation, unless alternative timescales are agreed in writing with the Local Planning Authority. The Approved Travel Plan shall be monitored and reviewed in accordance with the agreed Travel Plan targets.

Reason: In the interests of highway safety and sustainability.

30. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with DEFRA Non-statutory technical standards for sustainable drainage systems (March 2015), has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing. Details to be submitted shall also include the regime for supervision, inspection and certification of each phase of the surface water system by suitably qualified professionals.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and sufficient detail of the construction, operation and maintenance of sustainable drainage systems is provided.

31. No building works which comprise the erection of a building required to be served by water services shall be undertaken in connection with any phase of the development hereby permitted until full details of a scheme including phasing, for the provision of mains foul sewage infrastructure on and off site has been submitted to and approved in writing by the Local Planning Authority. No building shall be occupied until the works have been carried out in accordance with the approved scheme.

Reason: To prevent flooding, pollution and detriment to public amenity through provision of suitable water infrastructure.

32. No rainwater, contaminated with silt/oil from ground disturbed as a result of the construction phase of the development, shall drain to a surface water sewer or watercourse, without sufficient settlement. Under the Environmental Permitting Regulations 2010, the prior agreement of the Environment Agency is required for any discharge of dewatering water, from excavations, to controlled waters.

Reason: To prevent pollution of the Etwall Brook and its tributaries.

33. a) No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and

1. The programme and methodology of site investigation and recording;

2. The programme for post investigation assessment;
3. Provision to be made for analysis of the site investigation and recording;
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
5. Provision to be made for archive deposition of the analysis and records of the site investigation; and
6. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation

The evaluation phase of the archaeological scheme shall have taken place, and the report submitted to the local planning authority, before the submission of a reserved matters application with details of layout.

b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a).

c) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible.

34. No phase or sub-phase of the development shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority that specifies the provision to be made for dust mitigation measures and the control of noise emanating from the site during the period of construction of the phase. The approved measures shall be implemented throughout the construction period.

Reason: To protect the amenities of nearby residents.

35. During the period of construction, no construction work shall take place within 200 metres of the eastern boundary of the site outside the following times: 0730 - 1900 hours Monday to Friday and 0730 - 1330 hours on Saturdays and at any time on Sundays, Bank and Public Holidays.

Reason: To protect the amenities of nearby residents.

36. a) No any phase or sub-phase the development shall be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the Local Planning Authority; and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing. Local Planning Authority

b) Prior to occupation of any phase of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

c) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

d) If required by the conceptual model, no development shall take place until monitoring at the site for the presence of ground gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the Local Planning Authority, which meets the requirements given in Box 4, section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Reason: In the interests of pollution control.

37. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the Local Planning Authority without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

Reason: In the interests of pollution control.

38. The reserved matters submitted in accordance with condition 2 for the phase or sub-phase of the development shall include a detailed scheme of noise mitigation measures to demonstrate how the development will be protected from traffic noise as set out in the recommendations of the Chapter J of the Environmental Statement: Noise, dated March 2017. No development, on the relevant phase or sub-phase, shall be commenced before the Noise Mitigation measures have been approved, in writing, by the Local Planning Authority. The development shall be implemented in accordance with the approved measures and measures retained as approved throughout the lifetime of the development.

Reason: To protect future occupiers from noise.

#### Informatives:

1. You are advised to make separate enquiries with broadband providers in order to ensure that future occupants have access to sustainable communications infrastructure, and that appropriate thought is given to the choice and availability of providers which can offer high speed data connections. Any new development should be served by a superfast broadband connection unless it can be demonstrated through consultation with the network providers that this would not be possible, practical or economically viable.  
More information on how to incorporate broadband services as part of the

design of new development is available by following the link below:

<https://www.gov.uk/government/publications/better-connected-a-practical-guide-to-utilities-for-home-builders>

2. For further assistance in complying with planning conditions and other legal requirements applicants should consult ""Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated"". This document has been produced by local authorities in Derbyshire to assist developers, and is available from:

[http://www.south-derbys.gov.uk/environment/pollution/contaminated\\_land/default.asp](http://www.south-derbys.gov.uk/environment/pollution/contaminated_land/default.asp)

Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the Environmental Health Department. Further guidance can be obtained from the following:

1. CLR 11: Model Procedures for the Management of Contaminated Land
2. CLR guidance notes on Soil Guideline Values, DEFRA and EA
3. Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
4. Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
5. Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency. ISBN 0113101775.
6. BS 8576:2013 Guidance on investigations for ground gas. Permanent gases and Volatile Organic Compounds (VOCs).
7. BS 8485:2015 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings.

3. Activities such as dust suppression during construction, filling of any ponds/lakes and maintaining pond/lake levels may require an abstraction license. The proposed development site lies within the Lower Trent and Erewash abstraction licensing strategy (ALS) area. Under the Water Resources Act 1991, any abstraction of water greater than 20 cubic metres per day, requires an abstraction licence from the Environment Agency.

Whilst this catchment abstraction management strategy (CAMS) area is open to new applications for abstraction from ground and surface waters, local conditions may apply.

Further information is available at:

<https://www.gov.uk/guidance/water-managementabstract-or-impound-water>

4. The applicant is advised that in regards to the surface water drainage condition they will need to demonstrate, to the satisfaction of the Local

Planning Authority, the appropriate level of treatment stages from the resultant surface water in line with Table 3.3 of the CIRIA SUDS Manual C697. This type of development usually requires >2 treatment stages before outfall into surface water body/system which may help towards attainment of the downstream receiving watercourse's Water Framework Directive good ecological status.

5. The applicant is advised that in regards to the surface water drainage condition ensure all of the below parameters have been satisfied:

1. The production and submission of a scheme design demonstrating full compliance with DEFRA's Non-statutory technical standards for sustainable drainage systems:

a) Limiting the discharge rate and storing the excess surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical duration rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site to comply with S2 & S3.

b) Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm to comply with S7 & S8.

c) Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.

d) Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.

e) Production of a plan showing above ground flood pathways where relevant for events in excess of 1 in 100 year rainfall event to comply with S9.

f) Where reasonably practicable demonstrate that the runoff volume of the site reflects the requirements of S4.

6. The applicant is advised that the reserved matters should include a footpath route along the western boundary to service that side of the development with a traffic free route.

19/12/2017

**Item**            **1.2**

**Ref. No.**        **9/2017/0667/MR**

**Applicant:**  
**Mr Stuart Ashton**  
**Harworth Group PLC**  
**Advantage House**  
**Poplar Way**  
**Catcliffe**  
**Rotherham**  
**S60 5TR**

**Agent:**  
**Mr Steve Lewis-Roberts**  
**Pegasus Planning Group**  
**The Courtyard**  
**Church Street**  
**Lockington**  
**Derby**  
**DE74 2SL**

**Proposal:**    **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF UP TO 132 DWELLINGS AT LAND AT SK2719 3256 SITE B WOODLAND ROAD STANTON SWADLINCOTE**

**Ward:**        **NEWHALL & STANTON**

**Valid Date**   **26/06/2017**

**Reason for committee determination**

The item is presented to Committee at the request of Councillor Richards as local concern has been expressed about a particular issue.

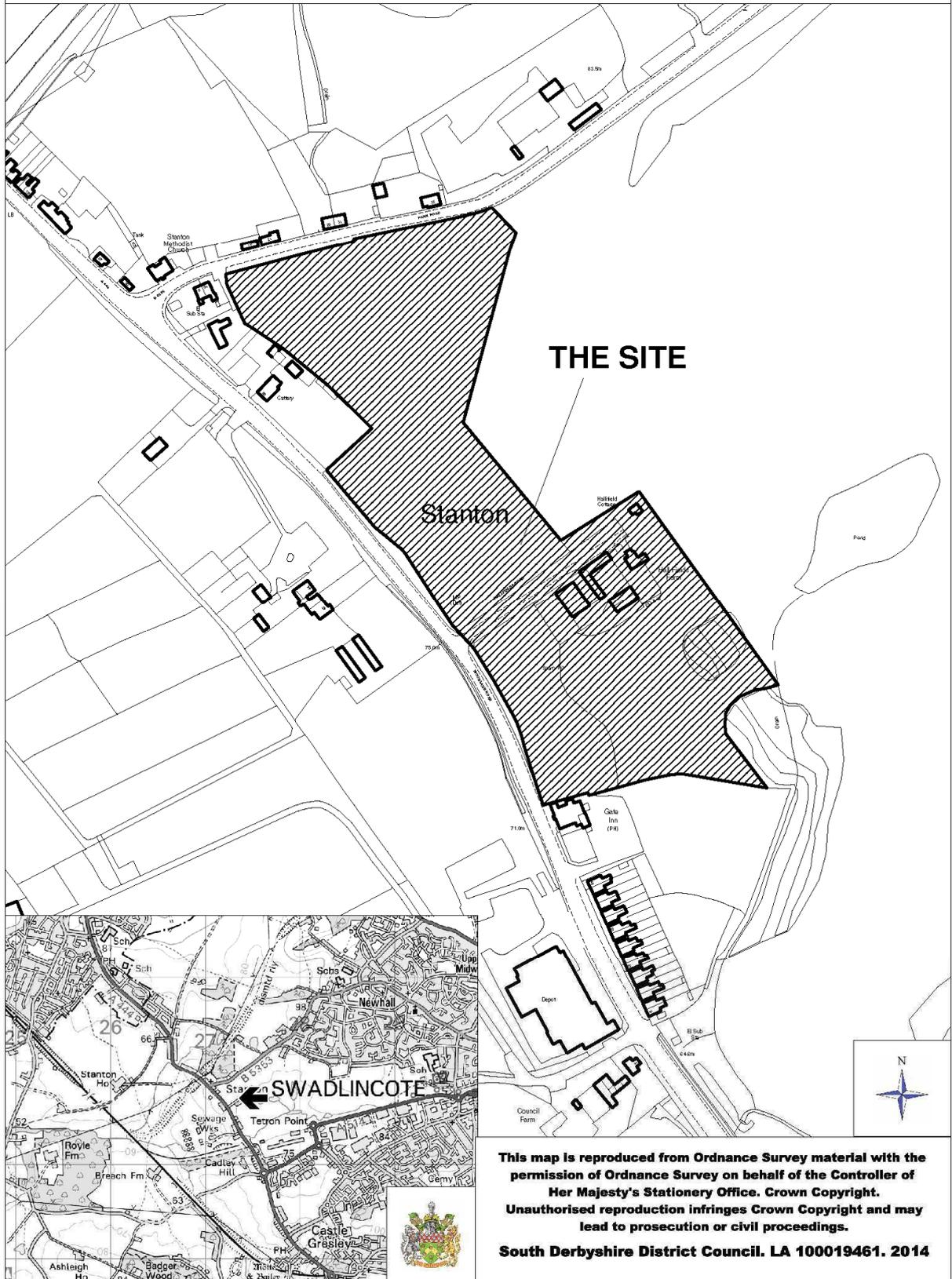
**Site Description**

This 4.91 hectare site is roughly rectangular in shape and has frontages onto both Park Road and Woodland Road. The land is in agricultural use and south eastern part formed part of Hall Fields Farm which has been demolished. To the south and north of the site, residential areas form linear or ribbon development along the A444 and Park Road. The Gate Public House bounds the site to the south east and the country park and golf course development is to the east. Public footpath 46 runs along the centre of the existing farm track.

**Proposal**

Outline planning permission is sought including access for residential development of up to 132 dwellings. Planning permission was granted in April 2016 for 110 dwellings (subject to a S106 agreement). The application is one of the three housing allocations surrounding the golf course (application refs 9/2014/0886 & 0888). The indicative masterplan shows access off Burton Road (A444) approximately 112m from the south eastern boundary with the Gate Inn, utilising the existing farm access.

9/2017/0667 - Land at SK 2719 3256 Site B, Woodland Road, Stanton, Swadlincote DE15 9TP



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Existing hedging would be retained on the A444 and Park Road. A 25-40m wide landscaping buffer is proposed adjacent to the country park to the north east. Landscaping with trees is proposed to the rear of existing properties on Burton Road and along the Park Road frontage. Proposed dwellings would be 10m from the Park Road frontage and approximately 24m from the existing dwellings opposite. The access would be tree lined and would link to an area of informal open space leading into the country park through the woodland planting area to the north east. Public footpath Swadlincote 46 runs through this area. A rectangular LEAP (equipped play area) is proposed to the north west of this area. A cycle link around the north eastern boundary would link with the site in the informal area of open space and provide a link to the A444 around the edge of the golf course. A cycle link is also proposed along Park Road to link with the Sustrans route further up Park Road near Site A (application 9/2014/0886). Dwellings would face the internal access roads and feature squares and landmark buildings to be secured at reserved matters stage to improve legibility.

### **Applicant's supporting information**

The Design and Access Statement describes the context and previous applications for the site around the golf course and the changes over time such as the induction of a country park. It explains the increase in the red line area from the previously consented scheme. It summarised the other supporting documents and describes the layout, scale and density of development. It states key note buildings are proposed to act as focal points and aid legibility. It describes the LEAP which would be natural wood together with traditional play equipment in timber where possible.

The Planning Statement describes the site's context in terms of planning history and relevant planning policy. Access arrangement would be as per the consented scheme. It describes the site, proposals and policy context outlining the presumption in favour of sustainable development within the NPPF. It concludes that the proposal accords with the development plan where it is consistent with the NPPF.

The Landscape and Visual Assessment Addendum considers that the extended proposal represents limited change and can be significantly mitigated as per the consented scheme.

The Flood Risk Assessment Addendum Report states the site is located within Flood Zone 1 (Low Probability). The proposals are for the construction of residential units on primarily greenfield land. The proposed development is classified as 'More Vulnerable' development in Table 2 of the NPPF Technical Guidance document. More Vulnerable development is an appropriate development type within Flood Zone 1. The risk of flooding from fluvial sources, groundwater, and overland flow is considered to be low. The risk of flooding from sewers is considered low to medium without any mitigation. It is, therefore, proposed that the internal roads are designed as exceedance routes to direct flows away from properties. It is proposed that surface water flows from the development will, be restricted to pre development 'greenfield' run off rates, for equivalent storm events up to the 1 in 100 year + climate change (40%) event. It is proposed that the existing waterbodies within the golf course site will be utilised to provide attenuation from restricted surface water flows from the northern catchment of the proposed site. It is proposed that new feature will

be constructed within the golf course to provide attenuation from restricted surface water flows from the southern catchment of the proposed site. SuDS features may also be incorporated within the development to provide water management at source and conveyance routes as well as water quality and biodiversity benefits.

The Arboricultural Report states the positions of the trees on site were generally restricted to the field boundaries with the exception of the eastern portion where many self-set groups had formed within the outgrown boundaries. A total of eleven individual trees, thirteen groups of trees and one hedgerow were surveyed as part of the arboricultural assessment. To facilitate the proposals, several groups of trees and hedgerows will require removal, all of which were considered to be category C, of low arboricultural and landscape value. There is an Ash tree to the centre of the site which is considered to be category U (unsuitable for retention) due to its structural condition. The removal of trees would not remove or drastically reduce the overall amenity value which they currently provide. Suitable mitigation could be secured within the proposals for their replacement.

The Ecological Update 2017 states that the wildlife site of Hall Field Farm Ponds abuts the site on the eastern boundary and is designated for its herpetofauna interest. Bretby Landfill potential local wildlife site (pLWS) is designated for its Great Crested Newt interest. These sites have been surveyed in detail as part of the Country Park application in 2016 and are protected by a suite of good practice measures to ensure no adverse impact. The majority of the site is species-poor semi-improved grassland and there is a young plantation woodland adjacent to the site south-eastern boundary. None of the hedgerows on the site's boundaries fall within the category of important under the Hedgerow Regulations. All hedgerows comprised at least 80% native woody species and qualify for priority habitats for conservation. Five trees (T1-T5) were recorded with the potential to support roosting bats with T2, T3 and T5 having moderate potential and T1 and T4 low potential. T2 and T3 would be loss as part of the development and should be subject to aerial inspection and nocturnal surveys in May to August may be required. Reptiles were found within the Country Park site and therefore similar good practice guidance.

The Herpetofauna Report and Method Statements outlines the 2016 surveys undertaken in relation to the country park application. It states that a medium population size-class of Great Crested is present within the Country Park area. The majority of the site has limited value for GCN. The survey results indicate the impacts to amphibians and reptiles from works on the site are considered to be negligible. A mitigation strategy including good practice working methods is outlined. Enhancement measures include 6 hibernacula, eight log pile style refugia with off-site ponds, planting and gully pots proposed within the Country Park. The Bat Survey in November 2017 details assessments of the five trees with roost potential. It has confirmed no roosts present and 4 trees had low potential and T5 had high potential T5 is located on the southern boundary adjacent to the Gate Inn and is likely to be retained.

The Affordable Housing Viability Statement states that the consented scheme for 110 dwellings (ref: 9/2014/0887) had 27.5% (30 units) of affordable housing. This proposal involves an extended site and a further 11 affordable units are proposed which would equate to 41 affordable units on site out of a total of 121 units and 34%.

The previous provision for the 27.5% was considered viable through the Economic Viability Assessment (EVA) undertaken. Thus on the extended part of the site, over half of the dwellings would be affordable and would be considered in the context of the wider site and the additional affordable would be offset by the inclusion of the private units.

## **Planning History**

9/2014/0887 - Outline application (all matters except for access to be reserved) for up to 110 dwellings, together with associated highway works, public open space, landscaping, associated drainage infrastructure and creation of pedestrian and cycle ways, Granted 26/4/16 (subject to an agreement under S106).

## **Responses to Consultations**

The Highways Authority states the site currently benefits from planning permission (9/2014/0887) for 110 dwellings. These comments are based on the amended scheme for 132 dwellings. The submitted TA Addendum refers to 160 units, an additional 50 dwellings appear to have been assessed. The TA also refers to the proposed access, stating that the latest proposal is to be accessed by a junction to the same design as that previously approved to serve 110 dwellings and shown on Drawing ADC1041/002 rev E. The layout shown on the approved drawing is considered suitable to serve the proposed increase in numbers. The actual route of the Footpath 46 is along the Hall Field Road i.e. the existing access off Woodland Road serving the site. In the event that the developer intends to relocate the Footpath, a formal Diversion Order will be required and would go through a separate statutory process. It is understood that there is intended to be a multi-user network of routes across the whole site as part of your Authority's Greenway Strategy to link with the existing Greenway network in the locality. An off-road Greenway link through Site B is proposed as part of this network. Obviously, if Footpath 46 remains on its legal line and runs along the new road, an alternative route will need to be established, either within the site or elsewhere. Bearing in mind the above comments, there are no objections to the proposal from the highway point of view subject to the conditions relating to construction management plan or construction method statement, design of the internal layout and minimum garage and parking space dimensions.

Peak and Northern Footpaths are concerned that the layout shows Footpath 46 running along the main vehicular access, with all the potential conflicts this will generate. It considers that it should be re-designed to keep the line of the footpath within its own landscaped corridor.

The Police Designing Out Crime Officer states that the visitor parking close to the PROW appears isolated from housing and housing close to the LEAP should be orientated and treated to overlook the area.

The Contaminated Land Officer has no objection subject to a condition requiring remediation works completed in accordance with the submitted Site Investigation Report and if further contamination is found.

The Environment Agency has no detailed comments and refers to standing advice.

The Coal Authority has no objection subject to a condition requiring the recommendations of the Site Investigation Report to be implemented.

The County Archaeologist states that the geophysics results show a small number of possible archaeology features and therefore a condition requiring a written scheme of investigation is recommended.

The National Forest Company considers the any additional requirement for planting due to the increase in site area above the previously approved scheme would be covered by the overprovision within Site C (9/2014/0888) and within the open space within the site. The open space that links to the Country Park should be landscaped as a gateway with avenue tree planting and woodland belts.

The County Flood Team has no objection subject to a Sustainable Drainage Scheme condition.

Derbyshire Wildlife Trust considers that the Bat Survey letter provides details of aerial roped-access surveys of five trees identified as providing potential bat roost features carried out by a suitably licensed surveyor. As a result of the further surveys three of the trees (T2, T3 and T4) proposed for removal were re-assessed as having low potential and they concur that given the limited likelihood of use by bats the removal of these trees should be carried out in strict accordance with the Method Statement outlined which should be secured by a condition attached to any consent. The further survey identified tree T5 as having moderate bat roost potential. It is currently understood that tree T5 will be retained within the development. This requires confirmation but if removal of the tree is deemed necessary at a later stage further nocturnal survey work in the May-August peak period will be necessary to demonstrate the presence or otherwise of roosting bats. It is considered that the details provided in the Herpetofauna Report and Method Statement for Parcel B prepared by FPCR dated November 2017 to be appropriate and we therefore advise that the proposed development should be carried out in strict accordance with the mitigation strategy detailed in section 5.0 of the Herpetofauna Report and Method Statement for Parcel B Swadlincote prepared by FPCR dated November 2017 as a condition of any consent. The area either side of the PROW should be used to provide maximum biodiversity benefit through the creation of an area of perennial / ephemeral vegetation with abundant bird's foot trefoil to enhance the local butterfly population. The landscaping scheme should allow for the installation of bat and bird boxes within the built development. A condition requiring a Landscape and Ecological Management Plan (LEMP) is recommended.

Severn Trent Water has no objection subject to a drainage condition.

The County Education Authority states that the proposal would generate the need for an additional 27 primary pupils. Stanton Primary School would have capacity to provide for 8 out of the 27 pupils. A financial contribution of £205,182.18 is required for the provision of 18 primary places at Stanton Primary School towards Project A – additional teaching accommodation. Although the proposal would generate the need

for an additional 20 secondary pupils, William Alitt School has sufficient capacity to accommodate this number.

The Council's Strategic Housing Officer considers that the 30 affordable units on the allocated land and the additional 11 units on the extension land (totalling 41 affordable homes) would be beneficial in meeting local need as there is high demand for social housing in this area. The tenure mix of these units would be subject to the agreed split as detailed in page 13 of the affordable housing SPD (i.e. - 68% rented & 32% intermediate). From a Strategic Housing perspective it would be beneficial to provide the following dwelling types as affordable units to meet the current demand and address lack of supply within our current social rented stock - 1 bed (2 person) flats in clusters of 6 or less, 4 bed (6 person) houses, 2 bed bungalows built to life time homes standards that can be adapted for disabled use, and a small number of 2 bed houses for social housing tenants wishing to downsize. With this level of affordable on site provision, a local lettings policy would be agreed and implemented by the registered provider / the Council taking on the ownership of these units, 100% of the affordable rented units would be nominated through our CBL scheme following handover and for the agreed period stated in the Local Lettings Plan. The Strategic Housing Manager considers that should any other funds become available from the development for affordable housing, than a commuted sum would be preferred to secure the purchase of market housing where a specific need exists; and/or the acquisition and repair of derelict and empty homes that are subject to enforcement; and/or the development / redevelopment of specialist housing to meet the identified housing needs of vulnerable people (e.g. refuge, young people with support needs etc.)

The Southern Derbyshire CCG requires a contribution of £50,213 to accommodate the increase in patients generated by the development towards provision of extra capacity at Newhall Surgery.

### **Responses to Publicity**

One letter of objection has been received, raising the following concerns/points:

- a. The increase in housing is a concern as there are limited local amenities.
- b. The proposal would benefit from a requirement to include a local convenience store.
- c. The proposal should be linked to the available school places in the area.
- d. A pedestrian access from the development to the north onto Park Road to link to bus stops and allow a better route for people going south to avoid the A444 should be considered.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LPP1): S1 (Sustainable Growth Strategy)  
S2 (Presumption in Favour of Sustainable Development)  
H1 (Settlement Hierarchy)

H2 (Land North of William Nadin Way, Swadlincote)  
H20 (Housing Balance)  
H21 (Affordable Housing)  
SD1 (Amenity and Environmental Quality)  
SD2 (Flood Risk)  
SD3 (Sustainable Water Supply, Drainage and  
Sewerage Infrastructure)  
SD4 (Contaminated Land and Mining Legacy Issues)  
BNE1 (Design Excellence)  
BNE3 (Biodiversity)  
BNE4 (Landscape Character and Local  
Distinctiveness)  
INF2 (Sustainable Transport)  
INF8 (The National Forest)  
INF 9 (Open Space, Sport and Recreation)

- 2017 Local Plan Part 2 (LPP2): SDT1 (Settlement Boundaries and Development)

BNE5 (Development in the Countryside);  
BNE7 (Trees, Woodland and Hedgerows)

### **National Guidance**

- National Planning Policy Framework (NPPF) Paragraphs 6-10 (Achieving sustainable development), paragraphs 11-14 (The presumption in favour of sustainable development), paragraph 17 (Core principles) and Chapter 2 (Ensuring the vitality of town centres) paragraphs 32-34 (Promoting sustainable transport), chapter 7 (Requiring good design), Chapter 8 (Promoting Healthy Communities), Chapter 10 (Flooding), Chapter 11 (Conserving and Enhancing the Natural Environment).
- Planning Practice Guidance (PPG): various

### **Local Guidance**

- South Derbyshire Design Guide (SPD)
- Affordable Housing (SPD)
- S106 Guide to Developers

### **Planning Considerations**

The main issues central to the determination of this application are:

- Principle of Development
- Highways
- Ecology
- Layout
- Residential Amenity
- Public Open Space

## Planning Assessment

### Principle of Development

Outline planning permission is sought for 132 dwellings with access to be agreed at this stage with layout, appearance, scale and landscaping as reserved matters. The principle of development of the majority of the site is established through the allocation in the adopted Local Plan Part 1 (LLP1) Policy H2 and in the extant permission for 110 dwellings. The part of the site that lies outside the settlement boundary is proposed as a cross subsidy scheme under Local Plan Part 2 Policy SDT1.

The allocated site

The site specific policy, Policy H2, includes the following requirements in relation to the 3 sites surrounding the golf course amounting to 600 dwellings:-

*B The Council will require the below listed site specifics and accordance with other Local Plan policies:*

- i) Consider the site holistically with other development and open space enhancement opportunities;*
- ii) A mix of dwelling types shall be provided across the three parcels of land which complement each other;*
- iii) The provision of recreational and community facilities;*
- iv) The presence of Coal Mining Legacy and resulting potential for unstable land will require the submission of a Coal Mining Risk Assessment in support of planning applications;*
- v) An appropriate buffer in agreement with the Council to be placed around the Breach Ley Farm Meadow County Wildlife Site;*
- vi) An appropriate easement along the watercourses on the site free of built development*
- vii) Provide high quality cycle and pedestrian links both within the development and connecting to existing and proposed networks, including NCN63 Burton to Leicester route.*
- viii) Developer contributions to be made towards the provision of a new Household Waste Recycling Centre in the Swadlincote area.*

Although this application falls to be considered on its own merits regard has been paid to the other two sites shown on the overall masterplan, as the pedestrian and cycle links are to be secured between them. The open space provision includes a LEAP within the site that would provide an area of natural play that could be accessed from Park Road by the wider community of Stanton. An informal area of open space is also proposed to provide a link to the adjacent Country Park. The routes through the Country Park provide links to the golf course and the larger site to the east (Site C (the area off William Nadin Way)) which proposes an urban park, improvements to existing sports pitches and retention of a local wildlife site. Cycle links are shown to be secured along Park Road and along the north eastern boundary of the site within the golf course. The link within the site shall be secured by condition. The provision of the links and infrastructure outside the site are to be secured through the S106 obligations for Sites A and C which are due to be finalised shortly and would require schemes to be submitted for the design and

implementation, including phasing, of the sustainable transport links, together with proposals for subsequent management and maintenance. In relation to iv), a Coal Mining Risk Assessment was submitted with the application and the Coal Authority has made an assessment and requested a condition. In relation to viii) the County Council is currently reviewing its approach to assessing the impact of housing development on waste services and is not currently requesting mitigation measures with regards to waste management. The proposal is considered to meet the relevant site specific requirements and thus accords with LPP1 Policy H2.

### Housing Mix and Affordable Housing

LPP1 Policy H20 seeks to provide a balance of housing that includes a mix of dwelling type, tenure, size and density that takes account of the Strategic Housing Market Assessment (SHMA) and Local Housing Needs Study. It requires density to be considered individually; to constitute an efficient use of land; consideration of viability and; that the mix is suitable and adaptable for different groups of people. LPP1 Policy H21 seeks to secure up to 30% of new housing development as affordable housing, as defined by the National Planning Policy Framework (NPPF), on sites of over 15 dwellings. The policy also sets out where rural exception sites that are kept in perpetuity as affordable housing would be acceptable.

The recently adopted Affordable Housing SPD identifies a net need of 1,028 dwellings within the Swadlincote South sub-market area with an outstanding need of 959 dwellings as at the 1<sup>st</sup> April 2015. The tenure split required for the area is 68% affordable homes for rent and 32% intermediate affordable homes. In order to address the lack of supply within the Council's current social rented stock the following dwelling types are required: 1 bed (2 person) flats in clusters of 6 or less, 4 bed (6 person) houses, 2 bed bungalows built to life time homes standards that can be adapted for disabled use, and a small number of 2 bed houses for social housing tenants wishing to downsize. A site with this level of affordable on site provision would require a local lettings policy. These parameters shall be secured within the S106 agreement.

### Cross Subsidy Site

LPP1 Policy H1 Settlement Hierarchy states that for urban areas:

*“Development of all sizes within the settlement boundaries will be considered appropriate and sites adjacent to settlement boundaries as an exceptions or cross subsidy site as long as not greater than 25 dwellings”.*

The adopted Affordable Housing SPD states that Policy H21 includes the criteria which need to be met to justify the delivery of cross subsidy sites allowed for by Policy H1. These criteria in part C of the policy require that:

*i) the homes must meet a clearly identified local need.* The Strategic Housing Market Assessment (SHMA) is clear in that there is an identified need for affordable housing across the District and within the sub-market area. Feedback from the Strategic Housing Manager is that there is a demand for affordable homes in Swadlincote, as is also set out in the Affordable Housing SPD.

*ii) the development provides a majority of affordable homes.* The part of the site outside the settlement boundary would deliver 21 dwellings, 11 of which would be affordable; therefore 52% of the dwellings are affordable.

*iii) the need cannot reasonably be met within the development limits of the village concerned or the sub-market area the site falls within, as detailed in the SHMA.* This site is on the edge of the urban area of Swadlincote and is substantially surrounded by existing development where there is a high demand for affordable homes and a deficiency in delivery.

*iv) the development is in a scale relative to the settlement size and facilities available particularly public transport and does not have any unacceptable adverse impacts on the natural and built environment.* The site involves an extension to an existing site and forms part of a wider development proposal with the resultant links to the surrounding area in a highly sustainable location without significant adverse impacts on the natural and built environment.

Policy H21 C makes reference to exception sites that are adjoining existing Key Service Villages, Local Service Villages and Rural Villages. Whilst this scheme is within an urban area as defined by the Settlement Hierarchy rather than a village, the principle of exception or cross-subsidy schemes adjacent to settlement boundaries including those of urban areas is clearly set out in Policy H1. Furthermore the Affordable Housing SPD highlights that whilst there is a need for affordable housing across the whole District, it is clear that the greatest need is within Swadlincote. This scheme would contribute to meeting that need.

On this basis, the proposal is considered to accord with LPP1 Policies H20 and H21 and the Council's SPD on Affordable Housing.

### Highways

LPP1 Policy INF2 requires that the traffic generated by new development should have no undue detrimental impact upon local amenity, the environment, highway safety and appropriate provision is made for safe and convenient access to and within the development for pedestrians, cyclists, public transport users and the private car and car travel generated by the development is minimised relative to the needs of the development. NPPF paragraph 32 requires that decisions take account of whether safe and suitable access to the site can be achieved for all people.

The Highways Authority has confirmed there is no objection in relation to highway safety regarding the access, however the line of Swadlincote Footpath 46 runs along the existing access. A multi-user network of routes across the golf course, country park and sites A and B as part of the Council's Greenway Strategy to link with the existing Greenway network in the locality is to be secured. If Footpath 46 remains on its legal line and runs along the new road it may have to be diverted. Adequate parking and internal road layouts would be secured through the reserved matters application. As such the development would be in conformity with LPP1 Policy INF2 and NPPF paragraph 32.

## Ecology

LPP1 Policy BNE3 supports development which contributes to the protection, enhancement, management and restoration of biodiversity or geodiversity and delivers net gains in biodiversity. It states that where proposals would have a direct or indirect effect on sites with potential or actual ecological or geological importance such as priority habitats and species they will need to be supported by appropriate surveys or assessments to allow the Authority to fully understand the likely impacts of the scheme and the mitigation proposed. NPPF paragraph 118 provides similar advice to conserve and enhance biodiversity and adequate mitigation for any harm.

There are four hedges and associated trees on the boundaries of the A444 and Park Lane that qualify as Habitats of Principle Importance which are shown to be retained and should be protected from damage. Tree T5 is identified as having moderate bat roost potential and is shown to be retained within the development. Derbyshire Wildlife Trust advises that sufficient information has been provided in respect of protected species and ecology and thus the proposal accords with LPP1 Policy BNE3 and NPPF paragraph 118.

## Flood Risk

The existing waterbodies within the golf course site would be utilised to provide attenuation from restricted surface water flows from the northern catchment of the proposed site. A new pond feature would be constructed within the country park to provide attenuation from restricted surface water flows from the southern catchment of the proposed site and to that end a separate application (9/2017/1221) has been submitted. SuDS features may also be incorporated within the development to provide water management at source and conveyance routes as well as water quality and biodiversity benefits.

## Layout

LPP1 Policy BNE1 expects all development to be well designed, creating places of a locally inspired character that respond to their context and respect important landscape, townscape and historic views and vistas.

The proposal is outline with scale, appearance, layout and landscaping reserved matters. However, the indicative layout could form the basis of this more detailed application and as such is required to set the parameters and design concepts.

The proposal includes the retention of hedgerows and trees along the road frontages of the site and dwellings are set back within the site in order to achieve this. Important views and vistas have been identified together with landmark buildings and orientation to the existing road frontages. A tree lined entrance with views through the site to the open land is proposed and legibility provided through the use of feature squares and landmark buildings in key locations on the concept plan. Buffer planting is proposed on the boundaries abutting the golf course with a larger area of woodland planting between the site and the country park to assimilate the development into the landscape. Links to the wider site for pedestrian, cyclists and public transport routes are identified. The proposal is considered to follow the design

principles set out within the adopted Design SPG and in the reverse matters applications these concepts would inform the detailed layout and design of streets and dwellings. The links to the open land adjacent to the site and the provision of substantial open space and recreation opportunities within the site would contribute to the health and well-being of communities. The proposal is considered to accord with the aspirations of LPP1 Policy BNE1, the Council's SPG on design and the principles outlined in paragraph 58 of the NPPF.

### Residential Amenity

LPP1 Policy SD1 relates to amenity and environmental quality and states that the Council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments. LPP1 Policy BNE1h) also has a requirement of protection of residential amenity of existing nearby occupiers. Paragraph 17 of the NPPF states that planning should secure a good standard of amenity for all existing and future occupants of land and buildings. The tests for this are set out in the new Design SPD.

The nearest existing residential properties are in the north western corner of the site on Burton Road and to the north over Park Road. The proposal is capable of meeting or exceeding the minimum separation distances as set out in the SPD. Dwellings would be set 10 m back from the road frontages behind buffer planting on Park Road and existing hedging on Burton Road. In relation to the cattery on the north western boundary an estate road would separate proposed dwellings from the boundary where the cats are housed. The proposal has demonstrated that the reserved matters application should not lead to adverse impacts on the residential amenity of existing residents in accordance with the Policies SD1, BNE1 h) and NPPF paragraph 17.

### Public Open Space

LLP1 Policy INF9 states that where existing open space and sports recreation facilities are not sufficient to meet local need, the Council will work with partners to provide high quality green space and recreation facilities and publicly assessable natural green space to meet the needs of new residential development and, where possible, to meet the needs of the existing population. The proposal includes both formal and informal areas of open spaces within the site. The LEAP area is located in the north eastern part of the site and a pedestrian link with Park Road is shown in the north western part of the site, which would facilitate access to the play area and country park by the wider population of Newhall. This would incorporate both a natural play area and formal equipment. The informal area would provide a connection with the adjacent country park and woodland planting area. All would provide a much need boost to play and recreation provision in the immediate area.

### S106 Requirements

The County Education Authority requires a financial contribution of £205,182 for the provision of 18 primary places at Stanton Primary School towards Project A – additional teaching accommodation. Notwithstanding the generation of additional

secondary and post-16 students from the site, the Education Authority is not seeking any further contribution given the forecast that William Allit School would be able to absorb the additional intake.

In terms of recreation and leisure provision, the following are required:

- a. An on-site public open space maintenance contribution of £81,180
- b. Off-site recreation facilities contribution of £72,600
- c. A Green Bank Leisure Centre Contribution of £40,260 to be used for works to the Swimming pool (as built facilities contribution).

Southern Derbyshire CCG requires a contribution of £50,213 towards the provision of additional capacity at Newhall Surgery.

When all contributions are totalled and, even taking into account the appreciable increase in affordable housing, there remains an uplift in apparent profit surplus of £237,870 compared to the extant Section 106 agreement. As such it is proposed that this is taken as a commuted sum to fund additional affordable housing projects in the area in accordance with the Strategic Housing Manager's request.

### Conclusion

The proposal would create a new development that responds to its context through the retention of the established hedgerows and provision of on-site open space adjacent to the open area to the north east. It would involve the provision of a high level of affordable homes within the sub-area that has a high demand and deficit in provision. It would utilise the existing access and would involve providing significant connections to the wider area for both new residents and the wider community of Stanton improving on its sustainability credentials. The buffer planting and woodland planting proposed would assimilate it with the open land it abuts and mitigate any impact on the landscape and has no significant adverse impact on the ecology of the area.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

### **Recommendation**

- A.** That delegated authority be granted to the Planning Services Manager to negotiate the details of the provisions of the Section 106 agreement referred to in the planning assessment of the report; and
- B.** Subject to **A. GRANT** permission subject to the following conditions:
  1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

(b) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.

2. Approval of the details of the layout, scale, appearance and the landscaping shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.

3. Prior to commencement of development a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with DEFRA Non-statutory technical standards for sustainable drainage systems (March 2015), shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to any works involving the construction of any dwelling.

Reason: To prevent the increased risk of flooding, both on and off site.

4. Prior to the occupation of any of the dwellings all remediation work stated within Section 7.2 of the Site Investigation Report ref LE12413 00 REV A dated March 2017 shall be completed.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

5. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

6. No development shall take place until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for the storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway and any proposed temporary traffic signing or restrictions.

Reason: In the interests of highway safety.

7. No other development shall be commenced until a temporary access for construction purposes has been provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The access shall be retained in accordance with the approved scheme throughout the construction period, or such other period of time as may be agreed in writing by the Local Planning Authority, free from any impediment to its designated use.

Reason: It must be ensured that before any construction work commences that a safe construction access is formed in the interests of highway safety. As such, approval at a later date would be unenforceable.

9. A subsequent reserved matters or full application shall include design of the internal layout of the site in accordance with guidance contained in the Manual for Streets documents and in the 6Cs Design Guide.

Reason: In the interests of highway safety.

10. Prior to the first occupation of any dwelling on the site a new street junction and associated works shall be implemented on Woodlands Road generally in accordance with Drawing No. ADC1041/002E but more specifically in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt the developer will be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this condition.

Reason: In the interests of highway safety.

11. Prior to the occupation of each dwelling, the proposed new estate streets between that dwelling and the existing public highway shall be laid out in accordance with the scheme approved in accordance with Condition 10 above, or as subsequently revised and approved in writing by the Local Planning Authority, constructed to base level, drained and lighted in accordance with the County Council's specification for new housing development roads.

Reason: In the interests of highway safety.

12. No dwelling shall be occupied until space has been provided within the site for the parking and manoeuvring of residents and visitors vehicles associated with that dwelling, laid out in accordance with the scheme approved in accordance with Condition 10 above, or as subsequently revised and approved in writing by the Local Planning Authority. The facilities shall be retained throughout the life of the development free from any impediment to their designated use.

Reason: In the interests of highway safety.

13. The scheme to be submitted to and approved in writing by the Local Planning Authority pursuant to Condition 10 above shall provide for bin stores within private land at the highway end of private accesses, to prevent refuse bins and collection vehicles standing on the new estate street for longer than necessary causing an obstruction or inconvenience for other road users. The facilities shall be provided prior to the first occupation of the dwellings to which they relate and shall be retained free of any impediment to their designated use thereafter.

Reason: In the interests of highway safety.

14. Private driveways/parking spaces to the proposed access road shall not be taken into use until pedestrian intervisibility splays, details of which shall be included in the reserved matters application(s), have been provided on either side of the accesses at the back of the footway/margin, the splay area being retained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.

Reason: In the interests of highway safety.

15. Unless as may otherwise be approved pursuant to the reserved matters, prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate, in the case of dwellings of four or more bedrooms three cars, in any other case two cars within the curtilage of each dwelling, or in any alternative location acceptable to the Local Planning Authority or as may otherwise be agreed in writing by the Local Planning Authority in accordance with its published standards. Thereafter three parking spaces (in the case of dwellings with four or more bedrooms) or two parking spaces (in any other case), each space measuring a minimum of 2.4m x 5.5m, shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority. For the avoidance of doubt, where a garage is counted as a parking space, the internal dimension should be at least 3m x 6m for a single garage and 6m x 6 for a double garage.

Reason: To ensure that adequate parking/garaging provision is available.

16. Unless as otherwise agreed in writing with the Local Planning Authority the proposed access driveways/parking spaces to the public highway shall be no steeper than 1 in 14 for the first 5.0m from the nearside highway boundary and 1 in 10 thereafter.

Reason: In the interests of highway safety.

17. Unless the local planning authority has previously agreed to an alternative timetable no development shall commence until a scheme for the disposal of highway surface water has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and retained accordingly thereafter.

Reason: Approval of a scheme at a later stage would not be sufficient to regulate surface water runoff from the site from the commencement of the development therefore putting highway safety in jeopardy.

18. No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a private management and maintenance company has been established.

Reason: In the interests of highway safety.

19. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area.

20. No site clearance works or development shall take place until there has been submitted to the Local Planning Authority for its written approval a scheme showing the type, height and position of protective fencing to be erected around each tree or hedgerow to be retained. The scheme shall comply with BS 5837:2012. No site clearance works or development shall be commenced in the vicinity of the protected tree or hedgerow until such a scheme is approved in writing by the Local Planning Authority and thereafter the development hereby permitted shall only be carried out in accordance with the approved scheme. The area surrounding each tree or hedgerow within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

- (i) There shall be no changes in ground levels;
  - (ii) No material or plant shall be stored;
  - (iii) No buildings or temporary buildings shall be erected or stationed;
  - (iv) No materials or waste shall be burnt within 20 metres of any retained tree or hedgerow; and
  - (v) No drain runs or other trenches shall be dug or otherwise created;
- without the prior written consent of the Local Planning Authority.

Reason: To ensure the protection of these features In the interests of the appearance of the area and biodiversity.

21. No work shall take place on the site until details of a scheme for the disposal of foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: Control is necessary to encompass the earliest construction phases In the interests of pollution control.

22. Prior to the submission of any reserved matters application a scheme of intrusive site investigations for the high walls and the shallow coal workings shall be submitted and approved in writing by the Local Planning Authority and if there is a need for remedial works these works shall be implemented prior to commencement of development in accordance with the approved details.

Reason: To ensure the stability and safety of the development, having regard to the Coal Mining Risk Assessment undertaken.

23. The reserved matters application shall include: the submission of a report of findings arising from both of the intrusive site investigations which shall include the results of any gas monitoring undertaken; the submission of a layout plan which identifies the opencast high walls and appropriate zones of influence for the recorded mine entries on site including the definition of suitable 'no-build' zones; the submission of a scheme of treatment for the recorded mine entries 427319-035 & 036 for approval and the submission of a scheme of remedial works for the shallow coal workings for approval. The approved remedial works shall be implemented prior to commencement of development.

Reason: To ensure the stability and safety of the development to protect against coal mining legacy.

24. A. No development shall take place, until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the Local Planning Authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and

1. The programme and methodology of site investigation and recording.
2. The programme for post investigation assessment.
3. Provision to be made for analysis of the site investigation and recording.
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
5. Provision to be made for archive deposition of the analysis and records of the site investigation.
6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

B. No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under 'A' above.

C. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under 'A' above and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible.

25. Notwithstanding any details submitted or the provisions of the Town and Country

Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected, which shall include an acoustic fence adjacent to 93 Woodland Road. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

Reason: In the interests of the appearance of the area.

26. No development shall take place until details of the materials proposed to be used on the surfaces of the roads, footpaths, car parking areas and courtyards along with samples of the materials to be used on the external surfaces of the buildings have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the appearance of the area and to enhance legibility of the street layout..

27. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed levels.

Reason: To protect the amenities of adjoining properties and the locality generally.

28. Before development begins a landscape and ecological management plan (LEMP) for all retained and created habitats shall be submitted to, and be approved in writing by, the local planning authority as part of any reserved matters application. The content of the LEMP shall include the following.

- a) Description and evaluation of features to be managed / created.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan will be implemented in accordance with the approved details.

Reason: To ensure that ecological interests are protected and enhanced in accordance with paragraph 118 of the National Planning Policy Framework.

29. The Approved Travel Plan shall be implemented in accordance with the timescales specified therein, to include those parts identified as being implemented prior to occupation and following occupation, unless alternative timescales are agreed in writing with the Local Planning Authority. The Approved Travel Plan shall be monitored and reviewed in accordance with the agreed Travel Plan targets. (Notwithstanding the submitted document it should be noted that [Paragraph 3.24] residents should be directed to <https://derbyshire.liftshare.com/> and [Paragraph 5.8] responsibility for production of the Travel Packs rests with the Travel Plan co-ordinator.)

Reason: To promote sustainable transport.

30. Before any works involving the construction of any dwelling commences full details, including surface materials, of the cycleway along Park Road within the site shall be submitted to and approved in writing by the Local Planning Authority. The cycleway shall be provided open to public use as approved prior to the first occupation of the development and shall thereafter be retained for that purpose unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of sustainable development.

31. If tree T5 requires removal, a further nocturnal bay survey in the May to August peak period shall be undertaken, submitted and approved in writing by the Local Planning Authority and removal undertaken in accordance with the approved good practice guidelines.

Reason: To ensure that ecological interests are protected in accordance with paragraph 118 of the National Planning Policy Framework; in order to control impacts from the outset as an early incursion could otherwise not be rectified.

32. The development hereby permitted shall be carried out in accordance with mitigation strategy in section 5.0 of the Herpetofauna Report and Method Statement by FPCR dated November 2017.

Reason: To ensure that ecological interests are protected in accordance with paragraph 118 of the National Planning Policy Framework.

#### Informatives:

1. The Highway Authority recommends that  
a) the first 5m of the proposed access driveways should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose

material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.

b) Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway/new estate street, measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

c) Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Environmental Services Department at County Hall, Matlock.

d) Car parking provision should be made on the basis of 1.5no., 2no. or 3no. parking spaces per 1, 2/3 or 4/4+ bedroom dwelling respectively. Each parking bay should measure 2.4m x 4.8m (larger in the case of spaces for use by disabled drivers) with adequate space behind each space for manoeuvring.

e) Under the provisions of the New Roads and Street Works Act 1991 and the Traffic Management Act 2004, all works that involve breaking up, resurfacing and/or reducing the width of the carriageway require a notice to be submitted to Derbyshire County Council for Highway, Developer and Street Works. Works that involve road closures and/or are for duration of more than 11 days require a three months notice. Developer's Works will generally require a three months notice. Developers and Utilities (for associated services) should prepare programmes for all works that are required for the development by all parties such that these can be approved through the coordination, noticing and licensing processes. This will require utilities and developers to work to agreed programmes and booked slots for each part of the works. Developers considering all scales of development are advised to enter into dialogue with Derbyshire County Council's Highway Noticing Section at the earliest stage possible and this includes prior to final planning consents.

f) Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Department of Economy Transport and Environment at County Hall, Matlock DE4 3AG. The applicant is advised to allow at least 12 weeks in any programme of works to obtain a Section 278 Agreement.

g) The application site is affected by a Public Right of Way (Footpath No. 46 on the Derbyshire Definitive Map). The route must remain unobstructed on the legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533190 and asking for the Rights of Way Duty Officer.

Please note that the granting of planning permission is not consent to

divert or obstruct a public right of way.

If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 01629 533190 for further information and an application form.

If a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a diversion order.

Any development insofar as it will permanently affect a public right of way must not commence until a diversion order (obtainable from the planning authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council.

To avoid delays, where there is reasonable expectation that planning permission will be forthcoming, the proposals for any permanent stopping up or diversion of a public right of way can be considered concurrently with the application for the proposed development rather than await the granting of permission.

2. The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

For further assistance in complying with planning conditions and other legal requirements applicants should consult ""Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated"". This document has been produced by local authorities in Derbyshire to assist developers, and is available from [http://www.south-derbys.gov.uk/business/pollution/contaminated\\_land/default.asp](http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp) Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: [pollution.control@south-derbys.gov.uk](mailto:pollution.control@south-derbys.gov.uk).

3. The application has been screened in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and the Authority is satisfied that the development will not give rise to significant environmental effects.

4. Where development is proposed, the developer is responsible for ensuring that development is safe and suitable for use for the purpose for which it is intended. The developer is thus responsible for determining whether land is suitable for a particular development or can be made so by remedial action. In particular, the developer should carry out an adequate investigation to inform a risk assessment to determine:  
- whether the land in question is already affected by contamination through

source -

pathway - receptor pollutant linkages and how those linkages are represented in a conceptual model;

- whether the development proposed will create new linkages, e.g. new pathways by which existing contaminants might reach existing or proposed receptors and whether it will introduce new vulnerable receptors; and  
- what action is needed to break those linkages and avoid new ones, deal with any unacceptable risks and enable safe development and future occupancy of the site and neighbouring land.

A potential developer will need to satisfy the local authority that unacceptable risk from contamination will be successfully addressed through remediation without undue environmental impact during and following the development. In doing so, a developer should be aware that actions or omissions on his part could lead to liability being incurred under Part IIA, e.g. where development fails to address an existing unacceptable risk or creates such a risk by introducing a new receptor or pathway or, when it is implemented, under the Environmental Liability Directive (2004/35/EC). Where an agreed remediation scheme includes future monitoring and maintenance schemes, arrangements will need to be made to ensure that any subsequent owner is fully aware of these requirements and assumes ongoing responsibilities that run with the land.

5. The application site may contain nesting birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure or take any wild British breeding bird or its eggs or damage its nest whilst in use or being built. The nesting season normally encompasses the months March to July inclusive. If you are in doubt as to requirements of the law in this regard you should contact English Nature, Peak District and Derbyshire Team, Manor Barn, Over Haddon, Bakewell, Derbyshire, DE4 1JE.

6. Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

7. Further to Condition 21 you are advised to consider the document 'Guidance on the assessment of dust from demolition and construction' from the Institute of Air Quality Management for advice on how such an assessment should be performed.

8. Further to Condition 25 advice on the production of the WSI can be obtained from the County Council's Development Control Archaeologist Steve.Baker@derbyshire.gov.uk Tel 01629 539773

9. The site is located on Triassic Sherwood Sandstone and Carboniferous Coal Measures strata which are designated as 'Principal' and 'Secondary (A)

Aquifers' respectively by the Environment Agency. A tributary of Stanton Brook is located 75 metres to the south east of the site.

The information submitted identifies that the site has been used by a farm. No site walkover has been undertaken to determine the presence of any potential contamination, for example associated with slurry or septic tanks and / or bulk fuel or chemical storage. Furthermore areas of localised tipping have been identified. Consequently there is potential for contamination to have occurred which may currently be impacting 'controlled waters' receptors of the groundwater in the underlying Principal and Secondary Aquifers and the tributary of Stanton Brook. Furthermore there is potential for re-mobilisation of any contaminants during site development.

Government Policy, as detailed in the National Planning Policy Framework (paragraph 120), states that 'where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner'. Therefore we recommend that the following planning conditions be attached to any planning permission granted to require the applicant to investigate the presence of contamination. The work undertaken to fulfil these (or any similar planning conditions that may be used) should focus on the potential impact on 'controlled waters' receptors.

10. The reserved matters application should be based on the indicative layout in respect of the design concepts, linkages, landscape buffers, hedgerow retention public open space provision and woodland planting.

11. The County Council do not adopt any private SuDS schemes. As such, it should be confirmed prior to commencement of works which organisation will be responsible for SuDS maintenance once the development is completed.

Any works in or nearby an ordinary watercourse require may consent under the Land Drainage Act (1991) from the County Council (e.g. an outfall that encroaches into the profile of the watercourse, etc) to make an application for any works please contact [Flood.Team@derbyshire.gov.uk](mailto:Flood.Team@derbyshire.gov.uk).

The Local Planning Authority should be mindful to obtain all the relevant information pertaining to the proposed discharge in land that is not within the control of the applicant, which is fundamental to allow the drainage of the proposed development site.

The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water in line with Table 4.3 of the CIRIA SuDS Manual 7353. This type of development usually requires >2 treatment stages before outfall into surface water body/system which may help towards attainment of the downstream receiving watercourse's Water Framework Directive good ecological status. The County Council would prefer the applicant to utilise existing landform to manage surface water in mini/sub-catchments. The applicant is advised to contact the County Council's Flood Risk Management team should any guidance on the drainage strategy for the proposed development be required.

19/12/2017

**Item** 1.3

**Ref. No.** 9/2017/1031/RSD

**Applicant:**  
Miller Homes  
2 Centro Place  
Pride Park  
Derby  
DE24 8RF

**Agent:**  
Mrs Helen Dawkins  
Miller Homes  
2 Centro Place  
Pride Park  
Derby  
DE24 8RF

**Proposal:** APPROVAL OF RESERVED MATTERS FOR LAYOUT, SCALE, APPEARANCE AND LANDSCAPING OF PLANNING PERMISSION REF: 9/2014/1141 ON LAND AT SK3825 9087 JAWBONE LANE KINGS NEWTON DERBY

**Ward:** MELBOURNE

**Valid Date** 25/09/2017

#### **Reason for committee determination**

The item is presented to Committee as it is a major application subject to more than two objections.

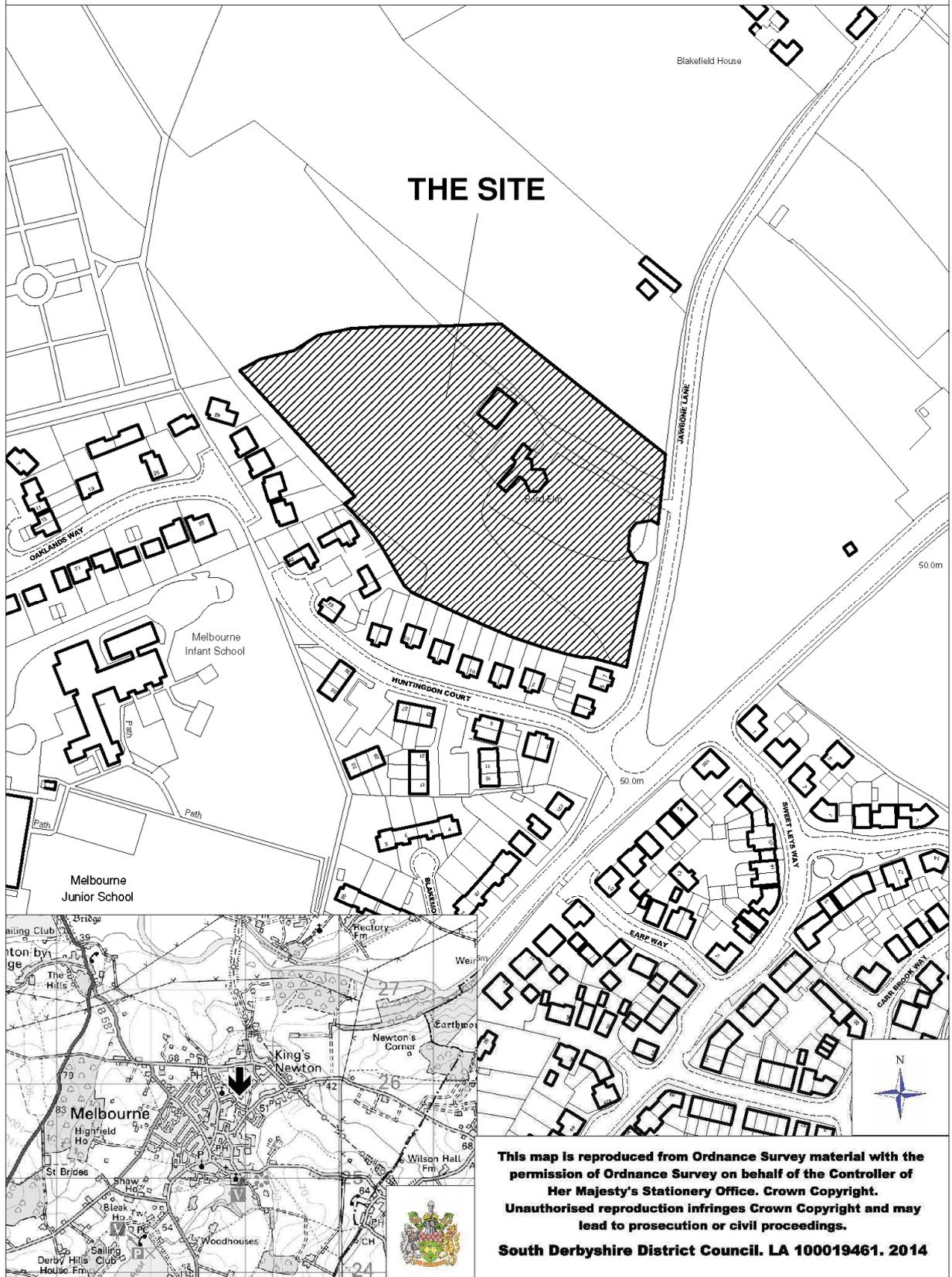
#### **Site Description**

The site extends to 1.49 hectares and is located to the north-east of Melbourne, beyond but adjoining the settlement confines of the village. Kings Newton lies a short distance to the north. The site slopes gently from north-west to south-east and contains a single dwelling – formerly an agricultural workers dwelling. A number of native and ornamental trees pepper the site and its boundaries, along with native and coniferous hedgerow in parts. The site is bounded to the south-west by existing residential development at Huntingdon Court and Oaklands Way, whilst Melbourne Cemetery lies beyond the northern tip of the site – adjoining retained land to the north. Agricultural land abuts the north-eastern boundary. The south-eastern boundary meets Jawbone Lane where access is provided. A pavement runs along the north western side of Jawbone Lane.

#### **Proposal**

Pursuant to the outline permission, as allowed at appeal, it is proposed to erect 34 two-storey dwellings under the reserved matters of that permission (layout, scale, appearance and landscaping). The dwellings provided would constitute a range of 1,

9/2017/1031 - Land at SK3825 9087 Jawbone Lane, Kings Newton, Derby  
DE73 8BW



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**South Derbyshire District Council. LA 100019461. 2014**

2, 3, 4 and 5 bedroomed dwellings, with a mix of tenures (providing for 10 affordable dwellings). A single estate road would serve the development, with shared driveways and a small courtyard leading off this, along with private driveways/parking bays. 2 parking spaces per dwelling would be provided, except for the 1 bedroom units where 1.5 spaces for each is proposed. A drainage basin would front Jawbone Lane and set the development back from the lane at this point, whilst landscaping would be provided to the public realm within the site and to its northern boundary.

### **Applicant's supporting information**

The application is accompanied by various layout drawings showing the proposed facing and surfacing materials, boundary treatments and landscaping, as well as plans and elevations of the house types. A street scene is also provided.

### **Planning History**

- 9/2016/0170 Outline application (all matters reserved except for access) for the erection of up to 34 dwellings - refused September 2016.
- 9/2014/1141 Outline application (all matters reserved except for access) for the erection of up to 44 dwellings - refused October 2015 but allowed at appeal in December 2016 (in so far as the reduced site under 9/2016/0170).
- 9/2013/0563 Removal of agricultural occupancy restriction under permission ref: 9/0865/0132 - approved October 2013.
- 9/2002/0762 Extension to the dwelling - approved September 2002.
- 9/0865/0132 Erection of a dwelling subject to an agricultural occupancy condition - approved November 1965.

### **Responses to Consultations**

The County Highway Authority confirms that, subject to the conditions attached to the outline permission, no further conditions are considered necessary and there is no objection.

The Police Force Designing Out Crime Officer raises no objection.

### **Responses to Publicity**

Melbourne Parish Council raises no objection.

Melbourne Civic Society objects on the following grounds:

- a) Melbourne does not need more 4-bedroom executive homes, with the Melbourne Neighbourhood Development Plan (NDP) policies calling for smaller properties, flats and bungalows;

- b) there are no street views of the affordable houses which seemed to have been crammed into a small area close to an earlier development;
- c) the house types are mediocre and show no obvious references to the local vernacular, with their designs bland and could be built anywhere in the country;
- d) the Design Guide (SPD) states that developers need take to account of local architectural style and detailing, and the applicant has made no such efforts;
- e) the level of detailing is low and there is very little information about the material finishes to the buildings, with good quality windows, quality brickwork and rainwater goods needed;
- f) the siting of the Sustainable Drainage System (SuDS) pond is of concern as this part of Melbourne is prone to flooding, and any overflow would add to the problems off-site;
- g) the pond should not appear like other SuDS installed on recent developments with crude industrial metalwork fittings;
- h) all houses on this site should be fitted with photovoltaic cells and solar panels and that the use of ground source heat pumps be investigated before permission is granted; and
- i) it would be dishonest to market this development as being in King's Newton as it sits against the Melbourne Settlement boundary.

Kings Newton Residents' Association (KNRA) objects on the following grounds:

- a) the layout includes a link to the adjacent field (north-east), suggesting an intention to develop that site where permission has been refused for that site (and dismissed at appeal) and is not in the Local Plan or emerging NDP;
- b) it would improve the visuals of the overall development if plots were reversed so rear gardens go up to the boundary, rather than the access road;
- c) the potential link to the north-western field, opposite plots 19 and 25, should also be blocked;
- d) the layout creates small gardens, increasing the likelihood of lawns, flowerbeds, etc. being lost to hard surfaces, resulting in increased run-off;
- e) on-going experience with the Kings Newton Lane development has elevated concern over the quality of planning, designing, creating and maintaining attenuation ponds, and assurance is required that the scheme can cope with anticipated surface water and that it would be maintained properly and with safety for residents;
- f) the site presently absorbs a great deal of rain water meaning that little goes to the drainage ditch on Jawbone Lane, and water flowing off the development is likely to go to the Sweet Leys development, which is already struggling with both surface water and sewage flooding;
- g) the affordable housing is too small with the size of each building, their gardens and the overall land allocated to the affordable housing of concern;
- h) the affordable housing is not designed for wheelchair use;
- i) the blend and design is wrong for the community and creates an unfortunate impression of social division;
- j) street scenes for affordable housing are not provided, possibly because of the inappropriate appearance;

- k) the public space is very fragmented, making it unusable by the community and inefficient for maintenance – it appearing as part of the front gardens for the properties creating confusion as to ownership and responsibility;
- l) there are no references to energy saving principles, and whilst not a requirement represents a missed opportunity to improve the housing stock and encourage the construction companies to become environmentally progressive;
- m) the distance for residents of plots 21 and 22 to put their bins out; and
- n) please do not let this site be addressed as Kings Newton.

4 objections have been received, raising the following concerns/comments:

- a. housing too close to existing dwellings at the top of Huntingdon Court;
- b. poor aspect for housing and destroying of countryside and views;
- c. the position of the pond will require several old trees on the boundary of the site to be chopped down, with these meant to be retained to block views of the houses from Kings Newton and Jawbone Lane;
- d. a lot of the larger trees that stand on the site would be chopped down unnecessarily and should be kept through better design;
- e. there is no tree report which identifies the trees and this needs to be provided;
- f. it appears that the properties along the south-western edge are to have close board fencing, leading to a gap allowing access to the rear of properties for the likes of dog walkers, youths, etc.;
- g. where trees are within homeowners gardens, will there be anything in their deeds around retaining and maintaining them? It would be a shame if these were removed as they also provide habitat for wildlife;
- h. work has already commenced on taking out some of the existing shrubs, etc.;
- i. who will maintain the pond?;
- j. a similar pond at the Charles Church development has not been maintained well and smells;
- k. it is not clear as to whether the road will be made wider along Jawbone Lane to accommodate more traffic, whether the footpath will be maintained/widened and whether this is the only entrance into the site, which will significantly increase traffic on a Lane currently used by walkers and cyclists;
- l. the Council needs to consider the schooling and doctor services for those who will move into these properties given that those in Melbourne are already at capacity; and
- m. it seems the developers have tried to develop the land sympathetically and hope this continues throughout the process with respect to the local environment and community.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), H19 (Housing Balance), H20 (Affordable Housing), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and

Local Distinctiveness), INF2 (Sustainable Transport) and INF7 (Green Infrastructure);

- 2017 Local Plan Part 2: BNE7 (Trees, Woodland & Hedgerows)

### **National Guidance**

- National Planning Policy Framework (NPPF), particularly paragraphs 6-10 (achieving sustainable development), paragraph 17 (core principles), section 6 (delivering a wide choice of quality homes), section 7 (requiring good design), section 11 (conserving and enhancing the natural environment), section 12 (conserving and enhancing the historic environment) and paragraphs 203 and 206 (planning conditions)
- Planning Practice Guidance (PPG), particularly ID18a (Historic environment), ID26 (Design), ID8 (Natural environment) and ID21a (Conditions)

### **Local Guidance**

- South Derbyshire Design Guide SPD

### **Planning Considerations**

The principle of development has been established by way of the appeal to the 2014 application. This defined the limits to the developable area of the site and the quantum of housing which could be accommodated, having regard to heritage and landscape impacts. A number of other matters were 'set' under this permission, including highway safety on the surrounding network, drainage principles (subject to condition in the appeal decision), affordable housing requirements, planning obligations and for the site to rely on existing open space provision off-site. The focus therefore can only be on the reserved matters applied for – namely matters of layout, scale, appearance and landscaping.

The main issues central to the determination of this application are:

- Layout and scale; and
- Appearance and landscaping

### **Planning Assessment**

#### Layout and scale

The layout is broadly that envisaged at the outline stage, with a single estate street along the centre of the site, with a higher density of housing to the south-western side and 'within' the development. Lower density housing provides an outward facing development, again as envisaged and in line with good design principles, to present itself to viewpoints from the wider countryside. A strong framing of, and relationship to, the street is achieved by the dwellings, whilst a mix of parking solutions assists in reducing the dominance of parked vehicles to private frontages, with a minimum of 2 spaces per dwelling provided for (save for the four 1-bedroom units which have a single designated space each, and two further shared spaces between them). The County Highway Authority raises no objections to the layout which appears to accord

with their design guidance, and suitable provision for bin collection is made. In addition, the arrangement and orientation of the dwellings ensures that the separation standards in the SPD are achieved.

The comments in respect of affordable and 'executive' housing are noted. The Melbourne NDP is at an early stage of preparation and can be afforded little weight at the current time. In any case policy H20 of the LP1 seeks a suitable balance of housing; both in terms of size and tenure, and this scheme would provide an appropriate range of dwellings as set out in the description of the proposal above. The provision satisfies the affordable housing need identified at the outline stage, reflecting the need across Melbourne as a whole for smaller units. Furthermore, a key part of the heritage and visual assessment at the appeal included ensuring that the outer edges to the development were of lower density, and hence larger detached dwellings were expected. Similarly, the scale (height and massing) of the dwellings accords with the principles considered in outline.

Despite concerns from the KNRA as to a link onto land to the north-east, a close inspection of the drawing shows this as a turning head to the shared driveway (not adoptable by the Highway Authority), stopping short of the site boundary. The access to the field to the north-west is reasonable and necessary to enable future maintenance of the land. Any proposal to develop either side of the site would need to achieve suitable access (to adoptable standard) and, moreover, require a fresh planning application which would be assessed on its merits. These concerns cannot be sustained under this application.

The SuDS pond is positioned as anticipated and requires this location in order to function correctly. In any case, it assists in pushing back the built frontage from Jawbone Lane north of the access, helping to preserve the 'green' feel of this route. Infrastructure related to the pond, along with its profile, must be addressed by way of the existing outline condition. Efforts have been made to ensure access to the pond strikes a balance between complete segregation and safety concerns for residents/public.

### Appearance and landscaping

The design for the dwellings and their associated features, such as parking areas and boundary treatments, follows the principles established at the outline stage. The house types proposed reflect those approved on the Sweet Leys development and amendments have secured a development which would not compete with, and thus bring about harm to, the setting of heritage assets. The design includes bay windows, strong gable features and symmetry between plots. The mix of house styles and scales creates an evolving built environment that sensitively reflects the local vernacular whilst providing its own identity. Feature properties set on prominent corners in the site provide a double frontage, improving the natural surveillance of the street and interest for the viewer. Side surveillance windows to parking bays have been added. Finer detail of eaves, verges and so forth can be addressed under condition.

The trees to the south-western and north-eastern boundaries would be largely retained and enhanced as part of the Habitat Management Plan (as required by an

outline condition). Protection of these areas is also addressed by way of a further outline condition. Where boundary walls are drawn back from the back of the footway so to allow for greening of the street scene, a condition can protect this character going forward.

The comments in respect of the open space provision are noted, but it was not intended at the appeal to provide for on-site open space – instead a financial contribution being secured to improve existing off-site provision. Any open space would be incidental, surrounding the SuDS for example. Hedgerows are to be used to delineate between the public highway and private gardens. Conditions can be applied to provide a reasonable degree of protection to the street character secured under this layout, whilst existing and proposed trees can be protected if required.

### Other matters

Whilst it is acknowledged there are existing drainage problems in Melbourne, it has been previously demonstrated that the site can be adequately drained – having regard to climate change predictions and ‘urban creep’ (i.e. creation of outbuildings, patios, etc. within gardens). It remains for the developer to satisfy the outline condition, and it is known that they have engaged with the Lead Local Flood Authority (LLFA) prior to designing the pond, such that the SuDS is considered to be appropriate.

The naming of the site, as Kings Newton, is based on the street naming and numbering principles – this site being within the Kings Newton parish and taking access from Jawbone Lane in the same parish. In any case, this is not a material consideration in the determination of planning applications.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

### **Recommendation**

**GRANT** approval of reserved matters subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with drawings/plans ref. MEL/DL/01 Rev C, MEL/BTP/01 Rev B, MEL/MAT/01 Rev C and the House Types pack ref. MEL/HTP Rev A (all as received 6 December 2017); and the soft landscape proposals ref. 7998-L-01 Rev D and 7998-L-02 Rev D; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

Reason: For the avoidance of doubt and in the interests of sustainable development.

2. The boundary treatments shall be completed in accordance with the approved details before the respective dwelling(s)/area(s) to which they serve is/are first occupied/used or in accordance with a timetable which shall first have been

submitted to and approved in writing by the Local Planning Authority. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, no further boundary treatments shall be erected between those approved and the edge of the highway or open space(s) without the express grant of planning permission upon an application made in that regard.

Reason: In the interests of the character and appearance of the area, in particular to maintain the character of public realm as secured under the plans hereby approved.

3. Prior to their incorporation in to the buildings hereby approved, details of the eaves, verges, cills and lintels shall be submitted to and approved in writing by the Local Planning Authority. The details shall include drawings to a minimum scale of 1:10. All verges shall be finished in a mortar finish with no use of dry verge (cloaking tile) systems. The eaves, verges, cills and lintels shall be constructed in accordance with the approved drawings.

Reason: In the visual interest of the buildings and local distinctiveness.

4. Gutters and downpipes shall have a black finish.

Reason: In the visual interest of the building(s) and local distinctiveness.

19/12/2017

**Item**            **2.1**

**Ref. No.**        **9/2017/0707/FM**

**Applicant:**  
**Mr Mark Adamson**  
**16 Dalston Road**  
**Newhall**  
**Swadlincote**  
**DE11 0QG**

**Agent:**  
**Mr Stephen Spence**  
**S.A.Spence Ltd**  
**11 Four Oaks Road**  
**Sutton Coldfield**  
**B74 2XP**

**Proposal:**    **THE ERECTION OF A THREE BEDROOM DETACHED DWELLING WITH INTEGRAL GARAGE ON LAND ADJACENT TO 16 DALSTON ROAD NEWHALL SWADLINCOTE**

**Ward:**         **NEWHALL & STANTON**

**Valid Date**   **15/08/2017**

#### **Reason for committee determination**

The item is presented to Committee at the discretion of the Planning Services Manager. A previous application was granted consent in this location contrary to Highway Authority advice which has subsequently lapsed.

#### **Site Description**

Dalston Road, Newhall is a narrow private street which carries a public right of way leading to a public footpath extending along the western and southern boundaries of the site. Dalston Road is very narrow at the point where it becomes public footpath at the western boundary of the site and, although additional land exists to the front of the existing dwelling (no 16) it is located at a lower level than the road and separated from the road by a fence so would require alteration to form part of the access. The site appears overgrown and, whilst bounded by walls and fencing on all sides, appears poorly maintained due to the deteriorating fence with missing panels and unmanaged planting. The site lies within the urban area of Swadlincote.

#### **Proposal**

This application seeks consent for a two storey single dwelling on land adjacent to no 5 Dalston Road (but previously garden to 16 Dalston Rd) separated by a public right of way and public footpath of width 2.9 metres. Amended plans have been received to enable the design of the house to meet standards set out in the Council's Design Guide.



## **Applicant's supporting information**

No supporting information has been submitted over and above the application form, plans, elevations and a Coal Mining Risk Assessment which highlights the risks associated with development in areas of shallow mine workings and sets out a proposed mitigation strategy.

## **Planning History**

9/2007/0980 - The erection of a detached dwelling – Refused 15-10-07

9/2007/1292 - The erection of a detached dwelling – Approved by Committee 01-04-08

## **Responses to Consultations**

The Coal Authority concurs with the submitted Coal Mining Risk Assessment and requests conditions relating to the proposal requiring the submission of a scheme of intrusive site investigation works for approval and the undertaking of the approved site investigation works, the submission of a report of findings arising from the findings of the investigations and the submission of a scheme of remedial works for approval and implementation prior to commencement of the development.

The Highway Authority notes that they previously commented on a similar scheme (9/2007/1292) which was also for a dwelling and recommended refusal. Whilst the layout submitted with this proposal is an improvement to the 2007 application, the proposal will still require the vehicles to manoeuvre within the public footpath due to the constraints of the site. The additional space would mean that vehicles would now manoeuvre within the footpath rather than needing to reverse the full length of Dalston Rd but this does not remove the driver/pedestrian conflict. The highway Authority therefore considers that the proposal would be contrary to the best interests of highway safety.

The Contaminated Land Officer has no objection to the proposal but requests a condition relating to the prevention of ground gas ingress.

## **Responses to Publicity**

No objections/letters of support have been received at the time of writing.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), INF2 (Sustainable Transport).
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development).

## **National Guidance**

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

## **Local Guidance**

- South Derbyshire Design Guide 2017 (SPD)

## **Planning Considerations**

The main issues central to the determination of this application are:

- Principle of Development
- Scale and Design
- Residential Amenity
- Highway Concerns

## **Planning Assessment**

### Principle of Development

The location of the site is within the urban area of Swadlincote where new development is considered acceptable in principle. The site is a short distance from a number of services and facilities, including a number of shops, schools and a regular bus service making this a sustainable site in general terms consistent with Local Plan Part 1 Policy H1. The proposal is also consistent with National Planning Policy Framework paragraph 14 being a sustainable location.

### Scale and Design

The application proposes a modest 'L' shaped two storey dwelling with integral single garage with bedroom above. The design is functional in nature and similar in style to the adjacent dwellings to the north. Facing brickwork and roofing materials have not been specified and are to be agreed by the LPA but white UPVC windows have been proposed. The front elevation of the dwelling appears as a blank elevation on the revised plan apart from the up and over garage door. This change was requested due to the minimum standards requiring a minimum distance of 15 metres between bedrooms and lounge dining rooms which could not be achieved. The bedroom window has therefore been moved to the side elevation. The garage door also appears offset and not centrally located. This is to accommodate a ground floor toilet adjacent to the side entrance. This layout is therefore a compromise given the constrained site as the site requires sufficient space at the front of the property to provide parking and turning space which is critical in a location that has no other provision. The proposal, whilst somewhat quirky with its offset garage door, appears to fit with the local character and is generally in accordance with BNE1 of Local Plan Part 1 2016.

### Residential Amenity

As outlined above, the site is constrained being relatively narrow and surrounded by existing development and amendments have been made to minimise the overlooking to the front of the property with the relocation of the bedroom window to the south elevation. This still leaves the ground floor living room window facing west towards no 16 Dalston Rd which has both living rooms at ground floor and bedrooms at first floor level within 15m, less than the usual standards set out in the SPD. However, as the proposed property and no 16 are separated by a public right of way, these standards can be relaxed. At the rear of the proposed property, the eastern elevation, which has both bedroom windows at first floor level and lounge/dining room and kitchen at ground floor, the distance is approximately 15 metres from the rear elevation with ground floor living room and first floor bedrooms of 57 Valley Rise and approximately 17.5 metres from 58 Valley Rise. Whilst the orientation of these properties is not directly parallel with the proposed dwelling they are still within the sector of view as set out in the SPD. Whilst the Agent notes that no 57 has both a single storey rear extension and an outbuilding in the western corner of the garden closest to the proposed development which would appear to block any overlooking, the two elevations are clearly closer than distance standards would normally allow and, notwithstanding the Agents comments, the opposing windows are visible even taking into account the outbuilding. In addition, the site of the proposed dwelling is lower than that of the dwellings on Valley Rise and as such any overlooking is increased and privacy would be compromised. The proposal does not therefore meet this part of Policy BNE1 and the South Derbyshire Design Guide SPD 2017.

### Highways

As noted above from the Highway Authority's response, access to the site is constrained by virtue of the size and position of the site in the street and the fact that the public footpath would effectively 'share' the access to the site. The widening of the driveway within controlled land does not remove the use of the public footpath to gain vehicular access to the application site. This conflict between drivers and pedestrians is considered contrary to the best interests of highway safety. As such it is not considered to comply with Policy INF2.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

### **Recommendation**

**REFUSE** permission for the following reasons:

1. The location of the access and layout of the vehicular parking and manoeuvring space requires the use of the public footpath to access the highway and as such there would be a conflict between drivers and pedestrians using the public footpath/access to the detriment of highway safety. The proposal is therefore contrary to policy INF2 of the South Derbyshire Local Plan Part 1 2016, and paragraph 32 of the National Planning Policy Framework; significantly and demonstrably outweighing the benefits brought about by the proposal.

2. The rear elevation of the proposed dwelling faces east and the ground floor living room and first floor bedrooms face the rear elevation of 57 and 58 Valley Rise. The distance between proposed bedrooms and existing living room is 15m and 17.5m respectively. The distance standards set out in the Councils SPD require a minimum of 21m between existing lounge and proposed first floor bedrooms. The proposal is therefore contrary to Policy BNE1 of the South Derbyshire Local Plan Part 1 2016, the South Derbyshire Design SPD 2017 and paragraph 59 of the National Planning Policy Framework; significantly and demonstrably outweighing the benefits brought about by the proposal.